

Agency 44

Department of Corrections

Articles

- 44-1. GENERAL ADMINISTRATION.
- 44-2. FACILITIES MANAGEMENT.
- 44-3. RESERVED.
- 44-4. TRAINING.
- 44-5. INMATE MANAGEMENT.
- 44-6. GOOD TIME CREDITS AND SENTENCE COMPUTATION.
- 44-7. PROGRAMS AND ACTIVITIES.
- 44-8. WORK RELEASE.
- 44-9. PAROLE.
- 44-10. RESERVED.
- 44-11. COMMUNITY CORRECTIONS.
- 44-12. CONDUCT AND PENALTIES.
- 44-13. DISCIPLINARY PROCEDURE.
- 44-14. ADMINISTRATIVE AND DISCIPLINARY SEGREGATION.
- 44-15. GRIEVANCE PROCEDURE FOR INMATES.
- 44-16. REPORTING AND CLAIMS; LOST OR DAMAGED PROPERTY OR PERSONAL INJURY.

Article 1.—GENERAL ADMINISTRATION

44-1-101. Definitions. (a) Institutional director. The institutional director is the principal administrator of a correctional institution.

(b) Unit supervisor. The unit supervisor is the principal administrator of a correctional unit.

(c) Correctional facility. Either a correctional institution or correctional unit.

(d) Correctional institution. A correctional institution is a correctional organizational entity operating within the department of corrections as an agency of the state of Kansas under a separate budget.

(e) Correctional unit. A correctional unit is any correctional organization entity providing direct services to inmates and operating as a function of the central office of the department of corrections within the budget of the department. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5205, 75-5210, 75-5210(f); effective May 1, 1980.)

44-1-102. News media and public information. (a) Each institutional director and each facility supervisor shall promulgate orders to establish the methods and system of dealing with the news media and public information for their

institution or facility. Such order shall assure the efficient flow of accurate information to the public under circumstances consistent with and in a manner conducive to safety, security, and the recognition of the right to privacy.

(b) News media representatives may visit a correctional institution or facility with permission of the principal administrator. The use of the facility, personnel, inmates, or records in connection with the making of motion pictures, television documentaries and the writing of books, magazine articles, and syndicated columns shall not be made without the written approval of the secretary of corrections. Interviewing and photographing an inmate shall be allowed only with the inmate's written consent and liability waiver.

(c) Correspondence between the media and inmates is subject to the same guidelines and restrictions as are applicable to general correspondence and mail as established by the regulations of the secretary and the general orders of the institutional director or facility supervisor. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5205, 75-5210, 75-5210(d) and (f); effective May 1, 1980.)

44-1-103. Public or educational visits

and tours. (a)(1) As part of an overall program of crime prevention and aversion, any institution or facility warden may develop a program, in cooperation with the courts and other agencies, to educate the public concerning the consequences of felony conviction and incarceration.

(2) Request for participation in this program may be made by the court or court services, school districts, state and local governmental agencies, criminal justice agencies, service organizations, and religious denominations. Participation by citizens may be by a group or by an individual. Adults and juveniles 10 years of age or older may participate in this educational program. The number of participants in any group and the conditions and time of the program shall be at the discretion of the institutional or facility warden. Sponsoring agencies shall apply to the warden at least 10 days before the desired date of participation.

(3) No recordings by video or audio methods, including film and videotape, shall be made without the approval of the warden and the written consent of any person who is identifiable in the recording.

(b) The general public, groups, or individuals may tour an institution or facility only while escorted by appointed personnel. Tours shall be conducted only at times convenient for the staff and conducive to efficient operation of the institution or facility, and to the safety and security of the staff, inmates, and general public.

(c) No group or individual shall be permitted in the institution without the approval of the institutional or facility warden. While on the premises, the visitors shall be subject to the regulations of the secretary of corrections and the orders of the warden. All visitors shall be subject to search and fingerprinting at the discretion of the warden. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1984; amended, T-44-1-25-99, Jan. 25, 1999; amended April 16, 1999.)

44-1-104. (Authorized by K.S.A. 75-5251, 75-5253; effective May 1, 1980; revoked May 1, 1981.)

44-1-105. Oaths, administration of; authorization and method. (a) Those persons responsible for the conduct of investigations within the prison, including those persons acting as hearing officers in hearings regarding inmate discipline and transfers to mental health institutions, shall be authorized to administer oaths.

(b) Oaths shall be administered in a form and manner that is in accordance with K.S.A. 54-101 *et seq.* (Authorized by K.S.A. 75-5210 and K.S.A. 75-5251; effective, T- 85-37, Dec. 19, 1984; effective, May 1, 1985.)

Article 2.—FACILITIES MANAGEMENT

44-2-101. Reserved.

44-2-102. Telephone usage by inmates.

(a) The principal administrator of each institution and facility shall formulate the orders for inmate use of telephones.

(b) Each institution or facility principal administrator shall publish orders governing the frequency, length, and permitted hours for inmate telephone calls.

(c) All inmate telephone calls, whether personal or business, outside or intra-institutional, may be monitored, unless the call is to an attorney, priest or minister, judge, ombudsman, or other person for which the protection of statutory privilege exists for the inmate.

(d) Inmate initiated calls shall be collect unless approved by the principal administrator for the state to pay for the call or for charge to inmate account. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5210, 75-5210(d) and (f); effective May 1, 1980.)

44-2-103. Trafficking in contraband. (a)

A person, including an employee, inmate, visitor, or volunteer shall not, without the consent of the warden: (1) introduce or attempt to introduce any item into or upon the grounds of a correctional facility;

(2) take, send, or attempt to take or send any item from any correctional facility;

(3) possess any item while in any correctional facility; or

(4) distribute any item within a correctional facility.

(b) "Any item," as used in subsection (a), shall include but not be limited to the following:

(1) Guns or firearms of any type, or the components, diagrams, or plans thereof;

(2) ammunition, explosives, or the diagrams, formulas or plans thereof;

(3) knives, tools, and materials such as sandpaper, whet stones or similar items used to make such knives or tools;

(4) hazardous or poisonous chemicals, flammable liquids and gases or formulas thereof;

(5) escape paraphernalia such as ropes, grappling hooks, hacksaw blades, jewelers' wire, bar spreaders, maps, lock picks, handcuff keys, or similar devices which could be used to aid an escape;

(6) identification documents or individual photographs of the inmate of the style suitable for the production of identification documents;

(7) documents, plans, diagrams, or schematics that refer to secure electrical systems, escape alarms, overhead lighting, facility power supply, gate operations, body alarms, radio communications, and similar systems;

(8) narcotics or other controlled substances, including any synthetic narcotic, drug, stimulant, sleeping pill, barbiturate, or medicine, prescription or non-prescription, which was not dispensed or approved by the facility health authority. Medicines dispensed or approved by the health authority shall be considered contraband if not consumed or utilized in the manner prescribed;

(9) intoxicants, including but not limited to liquor or alcoholic beverages;

(10) currency, in the form of paper, checks, money orders, coins, stamps or similar instruments with monetary value;

(11) hypodermic needles, hypodermic syringes, nasal inhalers or other devices or any component thereof which could be used to inject substances into the body;

(12) food items;

(13) cameras, recording devices, one or two-way transmitting devices, and similar devices and components thereof, including tapes, batteries, and film; or

(14) letters, notes, books, or other written communications. (Authorized by and implementing K.S.A. 1992 Supp. 75-5210; effective July 5, 1993.)

Article 3.—RESERVED

Article 4.—TRAINING

44-4-101. Definitions. For the purpose of this article the following definitions apply. (a) "Secretary" means the secretary of corrections.

(b) "Director" means the director of personnel and training.

(c) "Basic training" means a 200 hour block of instruction approved by the secretary.

(d) "Instructor" means any person selected to deliver training to correctional employees.

(e) "Certification" means successful completion of basic training.

(f) "Training officer" means those persons employed at each correctional facility to schedule, plan, coordinate and deliver orientation, basic and annual training to correctional employees. (Authorized by and implementing K.S.A. 1983 Supp. 75-5212; effective May 1, 1980; amended May 1, 1984.)

44-4-102. Equivalent training or substitutions for training. (a) Requests for waiver of all or part of the basic training requirements for corrections officers and parole officers, as provided for in K.S.A. 75-5212(c), shall be reviewed and approved by the director.

(b) Such requests shall be made in the form and manner prescribed in the department of corrections' internal management policies and procedures.

(c) Non-waivable requirements. The following training requirements shall not be waived: firearms, use of force, secretary of corrections' regulations, and department of corrections' internal management policies and procedures. (Authorized by and implementing K.S.A. 1983 Supp. 75-5212; effective May 1, 1980; amended May 1, 1984.)

44-4-103. (Authorized by and implementing K.S.A. 1983 Supp. 75-5212; effective May 1, 1980; amended May 1, 1984; revoked March 22, 2002.)

44-4-104. (Authorized by and implementing K.S.A. 1983 Supp. 75-5212; effective May 1, 1980; amended May 1, 1984; revoked March 22, 2002.)

44-4-105. (Authorized by K.S.A. 1979 Supp. 75-5212; effective May 1, 1980; revoked May 1, 1984.)

44-4-106. (Authorized by and implementing K.S.A. 1983 Supp. 75-5212; effective May 1, 1980; amended May 1, 1984; revoked March 22, 2002.)

44-4-107. (Authorized by and implementing K.S.A. 1983 Supp. 75-5212; effective May 1, 1984; revoked March 22, 2002.)

44-4-108. (Authorized by and implementing K.S.A. 1983 Supp. 75-5212; effective May 1, 1984; revoked March 22, 2002.)

44-4-109. (Authorized by and implement-

ing K.S.A. 1983 Supp. 75-5212; effective May 1, 1984; revoked March 22, 2002.)

Article 5.—INMATE MANAGEMENT

44-5-101. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5205; effective May 1, 1980; revoked March 22, 2002.)

44-5-102. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5205, 75-5210, 75-5252; effective May 1, 1980; amended May 1, 1984; revoked July 11, 1994.)

44-5-103. (Authorized by K.S.A. 75-5251, 75-5253, K.S.A. 1983 Supp. 75-5210, 75-5252, 75-5268; implementing K.S.A. 58-208, 75-5254, K.S.A. 1983 Supp. 75-5257, 75-5268, 76-173, 76-174, 76-175; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984; revoked March 22, 2002.)

44-5-104. Classification for security. (a) The security classification assigned to each inmate shall determine the security measures which are to be applied to that inmate at any particular time and under various circumstances, according to:

(1) The secretary of corrections' internal management policy and procedure (IMPP) number 011-107, which provides instructions for the classification process and for security designation;

(2) internal management policy and procedure number 012-101, which provides a description of supervision requirements for each security level; and

(3) the general and special orders of the principal administrator at the institution where the inmate is housed.

There shall be three basic security levels to which an inmate may be assigned during that inmate's period of incarceration. The security classification shall determine, in whole or in part, the security procedures applied to the inmate including the type of housing, area of assignment or activity, and the kind of supervision for maintaining control of that inmate. The level of security shall also partially determine the level of privileges and freedoms allowed to an inmate since the required security measures affect the availability of such privileges and freedoms. The security measures exercised over an inmate at any particular level may be greater, but shall never be less, than those prescribed as applicable to that level of security to which the inmate has been assigned.

(b) The basic levels of security classification are as follows:

- (1) Maximum;
- (2) medium; and
- (3) minimum.

(c) Security classification levels shall be assigned in accordance with the security classification manual, secretary of corrections' internal management policy and procedure (IMPP) 011-107.

(d) Each security classification is defined by the description of security measures applied to inmates with that security classification. The description shall be developed and published in the security manual of the secretary of corrections' internal management policies and procedures, chapter 12.

(e) The institution director or facility supervisor shall establish security procedures to be applied to each security classification, which are appropriate for the operation of their respective institutions or facilities.

(f) Any change in an inmate's security classification shall be based on a recommendation of the program management committee of the institution or facility, consistent with the secretary of corrections' IMPP 011-107. The change in security classification shall be made under the authority and by the order of the principal administrator.

(g) The principal administrator may designate any needed security procedures for temporary or special situations, subject to other regulations of the secretary of corrections, that are not inconsistent with secretary of corrections' IMPP 012-101. (Authorized by and implementing K.S.A. 75-5251, 75-5210, 75-5252; effective May 1, 1980; amended May 1, 1984; amended May 1, 1987.)

44-5-105. The program plan and timetable. (a) Within one month after each inmate's admission or re-admission evaluation, an initial classification committee shall meet with the offender to develop a program plan. The development of an inmate's program plan and timetable for projected completion shall be based on an interview of the inmate by the initial classification committee and on review of available information concerning the inmate, including any specific recommendations made by state reception and diagnostic center or Kansas correctional institution at Lansing regarding needed features in the program plan for that particular inmate. The program plan shall then be modified according to the avail-

ability of programs and services at the institution or facility. The initial classification committee shall also consider the inmate's personal preference for particular programs. The committee shall consider opinions of the security officers as they relate to the formulation of a plan.

(b) The program plan shall include various tasks which the inmate agrees to perform over an estimated period of time. The tasks shall be designed to assist the inmate in making changes that will better allow the inmate to re-enter the community and live without coming in conflict with the law. The tasks shall be of several types and may include activities in education, vocational training, psychological or psychiatric counseling or therapy, work, hobbies or leisure time activities, and participation in social, special interest or special counseling groups. The program plan shall include, as a basic and continuing requirement, the assessment, development, and maintenance of the characteristics of acceptable social behavior, obedience to the regulations of the secretary and the orders of the principal administrator and all laws, and the effort to solve problems identified by valid psychological testing so the inmate may live in the community without coming in conflict with the law.

(c) (1) Any inmate may elect not to participate in a formal program plan. In such an event, that inmate shall not be prohibited from participating in any programs as are available, but the inmate shall first obtain the recommendation and approval of the unit team. The unit team may recommend the inmate for parole eligibility based on the inmate's rehabilitation progress accomplished by the inmate's own initiative. The inmate shall not be penalized for refusal to participate in a formal program plan. The inmate shall nevertheless be subject to all the regulations of the secretary and the orders of the principal administrator, and shall be required to participate in any work assignments which are made by the unit team.

(2) Any inmate may, at any time, request the creation of a formal program plan. The unit team shall, within 60 days, confer with the inmate and shall draft a program plan and timetable for the inmate.

(d) The unit team members shall be available to attend the Kansas adult authority initial hearing, at the order of the authority pursuant to K.A.R. 45-5-1, to confer with the Kansas adult authority and to assist the Kansas adult authority in establishing or identifying the parole eligibility

date. (Authorized by K.S.A. 1983 Supp. 75-5210; implementing K.S.A. 1983 Supp. 75-5210, 75-5220, 75-5229; effective May 1, 1980; amended May 1, 1984.)

44-5-106. Use of force or restraint on inmates. (a) K.S.A. 21-3215, regarding use of force by a law enforcement officer in making an arrest, shall be applied to correctional officers and parole officers in making arrests, preventing escapes, apprehending escapees or parole violators and absconders, and in maintaining security, control, and discipline in the correctional situation.

(b) The use of mechanical restraints on an inmate for punitive purposes shall be prohibited. Mechanical restraints may be used only when necessary in the following instances:

- (1) When transporting the inmate;
- (2) upon the advice of clinical personnel that the inmate may cause injury to self or others, or when, based on the past history or present behavior, it appears likely that the inmate will cause injury to self or others;
- (3) when hospitalized outside the correctional security setting; and
- (4) when part of authorized practice in routine security procedures applied to an inmate based on the inmate's security classification.

(c) No restraining device shall be applied in a manner which would cause significant physical pain or undue discomfort, restrict blood circulation or breathing, or otherwise injure or incapacitate the inmate beyond the extent necessary to maintain security and control. (Authorized by K.S.A. 75-5251; implementing K.S.A. 21-4609, 75-5252, 75-5210; effective May 1, 1980; amended May 1, 1984; amended May 1, 1987.)

44-5-107. (Authorized by K.S.A. 75-5201, 75-5251, K.S.A. 1979 Supp. 75-5205, 75-5210, 75-5210(b) and (f), 75-5252; effective May 1, 1980; revoked March 22, 2002.)

44-5-108. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5210(f), 75-5252; effective May 1, 1980; amended May 1, 1984; revoked March 22, 2002.)

44-5-109. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5205, 75-5206, 75-5210, 75-5210(c) and (f), 75-5252; effective May 1, 1980; revoked March 22, 2002.)

44-5-110. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210;

effective, May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended May 1, 1985; revoked March 22, 2002.)

44-5-111. Disposition of contraband. (a) Contraband shall be divided into three (3) categories as follows: (1) Items which are contraband because mere possession is illegal in the state of Kansas or the United States.

(2) Items, including money, which are made contraband in the prison environment by the laws of the state of Kansas, by the regulations of the secretary of corrections, or by the orders of a principal administrator.

(3) Items which are neither illegal in themselves nor defined as contraband in a prison under all circumstances, but which because of their misuse or excessive accumulation, or because they constitute the subject of a rule violation or illegal act, have become contraband.

(b) Upon admission to the department of corrections, an inmate's property is restricted. Money and any property not permitted in the facility is disposed of according to the regulations of the secretary of corrections.

(c) If, at any time following admission to any correctional facility, the inmate is found in possession of any item which by law or regulations is contraband, including money, such items shall be confiscated and the inmate shall forfeit all rights to such item, and, where applicable, it shall be held as evidence in a prosecution for a crime or an administrative disciplinary process, or both. Following the completion of any prosecution and disciplinary proceedings, the contraband, depending on type, shall be disposed of as follows: (1) If inherently illegal under laws of the United States or Kansas, it shall be left in the custody of local officials or destroyed, and a record shall be made and retained at the facility for three (3) years.

(2) If illegal only in the prison environment, in lieu of both options in (c) (1) above, it may be donated to any charitable not-for-profit corporation, and a record shall be made and retained at the facility for three (3) years; except that money which shall be placed in the inmate benefit fund.

(d) When it is determined that property held by an inmate should be confiscated because of its misuse, or excessive accumulation, but the property is otherwise not a violation, the following action shall be taken.

(1) If the inmate can show ownership of the property and the property has not been the sub-

ject of any rule violation, the property may be sent out of the correctional facility to some person designated by the inmate at the inmate's expense.

(2) If the property constitutes the subject of some violation, it shall be held as evidence in a prosecution or disciplinary hearing and thereafter may be disposed of by donation to any charitable not-for-profit corporation and a record made and retained for three (3) years, or by sending it to some person outside the correctional facility at the inmate's expense and at the principal administrator's discretion.

(3) If the property does not belong to the inmate, the property shall be returned to the rightful owner if such owner can be determined. If the property was stolen, it may be used as evidence in a disciplinary hearing or prosecution before being returned to its rightful owner. If the property was the subject of a loan or other violation of the property registration rules, or if the rightful owner of the property cannot be determined, then the property may be donated to any charitable not-for-profit corporation and a record made and retained for three (3) years.

(e) The inmate shall be given an opportunity to explain any mitigating or extenuating circumstances which would excuse his or her possession of the contraband. The principal administrator shall make the final decision.

(f) If a finding is made that the item is not contraband, it shall be returned to the inmate. (Authorized by K.S.A. 21-3826, 75-5254, 75-5257, K.S.A. 1979 Supp. 21-4206, 75-5205, 75-5210, 75-5210(f), 75-5252; effective May 1, 1980.)

44-5-112. Clinical services, inmate treatment.

(a) The principal administrator in cooperation with the administrator's chief physician shall arrange for services to inmates both on an outpatient and on a hospital basis, and shall also make proper plans and arrangements for an inmate to be taken, when necessary, to a medical facility outside the correctional institution. All such plans and arrangements shall be in compliance with internal management policies and procedures of the secretary of corrections. Procedures for inmates reporting a personal injury or medical problem shall be established, in writing, by order of the principal administrator and inmates shall be informed thoroughly regarding procedures.

(b) Adequate and necessary basic care shall be made available to inmates. The principal administrator shall establish, by order, a system for in-

mate medical care during normal working hours and for emergency medical care during evenings, weekends and holidays. The system shall be in compliance with internal management policies and procedures of the secretary.

(c) Medical assistants shall be certified according to current standards in Kansas and the principal administrator shall provide a program of continuing education.

(d) Adequate and necessary basic care, treatment and maintenance procedures shall be available for diabetics and hypoglycemics. The clinic shall provide diet requirements for these persons to the principal administrator and shall consult with the food service staff to plan necessary dietary modifications. A diet from which reasonable selection may be made and which is sufficient for their needs, may be used in lieu of special menus. Other dietary needs, verified by clinical personnel as being necessary and basic for adequate health care, shall be met. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5252; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984.)

44-5-113. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended May 1, 1985; revoked March 22, 2002.)

44-5-114. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210; effective May 1, 1984; revoked March 22, 2002.)

44-5-115. Service fees. (a) Each inmate in the custody of the secretary of corrections shall be assessed a charge of one dollar each payroll period, not to exceed \$12.00 per year, as a fee for administration by the facility of the inmate's trust account. The facility shall be authorized to transfer the fee from each inmate's account from the balance existing on the first of each month. If an inmate has insufficient funds on the first of the month to cover this fee, the fee shall be transferred as soon as the inmate has sufficient funds in the account to cover the fee. All funds received by the facility pursuant to this subsection shall be paid on a quarterly basis to the crime victims' compensation fund.

(b) (1) Each offender under the department's parole supervision, conditional release supervision, postrelease supervision, and interstate compact parole and probation supervision in Kansas

shall be assessed a supervision service fee of a maximum of \$25.00 dollars per month. This fee shall be paid by the offenders to the department's designated collection agent or agents. Payment of the fee shall be a condition of supervision. All fees shall be paid as directed by applicable internal management policy and procedure and as instructed by the supervising parole officer.

(2) A portion of the supervision service fees collected shall be paid to the designated collection agent or agents according to the current service contract, if applicable. Twenty-five percent of the remaining amount collected shall be paid on at least a quarterly basis to the crime victims' compensation fund. The remaining balance shall be paid to the department's general fees fund for the department's purchase or lease of enhanced parole supervision services or equipment including electronic monitoring, drug screening, and surveillance services.

(3) Indigent offenders shall be exempt from this subsection of the regulation, as set forth by criteria established by the secretary in an internal management policy and procedure.

(4) The fees authorized by subsection (d) of this regulation shall not be considered a portion of the monthly supervision service fee.

(c) Each inmate in the custody of the secretary of corrections shall be assessed a fee of \$2.00 for each primary visit initiated by the inmate to an institutional sick call. A primary visit shall be the initial visit for a specific complaint or condition. Inmates shall not be charged for the following:

(1) Medical visits initiated by medical or mental health staff;

(2) institution intake screenings;

(3) routinely scheduled physical examinations;

(4) clinical service reports, including reports or evaluations requested by any service provider in connection with participation in the reentry program;

(5) evaluations requested by the Kansas parole board;

(6) referrals to a consultant physician;

(7) infirmary care;

(8) emergency treatment, including initial assessments and first-aid treatment for injuries incurred during the performance of duties on a work detail or in private industry employment;

(9) mental health group sessions;

(10) facility-requested mental health evaluations;

(11) follow-up visits initiated by medical staff; and

(12) follow-up visits initiated by an inmate within 14 days of an initial visit.

No inmate shall be refused medical treatment for financial reasons. If an inmate has insufficient funds to cover the medical fee, the fee shall be transferred as soon as the inmate has sufficient funds in the account to cover the balance of the fee.

(d) Each offender shall be assessed a fee for each urinalysis or other test approved by the secretary of corrections that is administered to the offender for the purpose of determining the use of illegal substances and that has a positive result. The amount of the fee shall be adjusted periodically to reflect the actual cost of administering these tests, including staff participation.

(e) Each offender shall be assessed a fee, if applicable, for the following:

- (1) Global positioning system (GPS) tracking;
- (2) electronic monitoring;
- (3) an application for transfer under the interstate compact for adult offender supervision;
- (4) polygraph examinations;
- (5) community residential bed housing; and
- (6) sexual abuser's treatment services.

The fee for each service specified in this subsection shall be assessed only if the service is required as a part of postincarceration release supervision.

If applicable, each offender on postincarceration release supervision shall also be assessed a fee for the collection of specimens of blood and saliva for the purpose of providing DNA profiles to the Kansas bureau of investigation, pursuant to K.S.A. 21-2511 and amendments thereto. (Authorized by K.S.A. 2003 Supp. 75-5210, K.S.A. 75-5251, K.S.A. 75-52,139; implementing K.S.A. 2003 Supp. 22-3717, as amended by 2004 SB 422, § 5, K.S.A. 75-52,139; effective Jan. 3, 1995; amended, T-44-3-19-04, March 19, 2004; amended July 2, 2004.)

Article 6.—GOOD TIME CREDITS AND SENTENCE COMPUTATION

44-6-101. Definitions. (a) For purposes of sentence computation, as used in this article, terms dealing with good time credits shall be defined as follows:

(1) "Establishment of good time credits" means the creation of that pool of credits that decreases part of the term of actual imprisonment for good

work and behavior over a period of time. Good time credits shall not forgive or eliminate the sentence but shall function only to allow the inmate to earn the privilege of being released from incarceration earlier than the full minimum, maximum, or guidelines prison sentence, subject to conditions specified and imposed pursuant to applicable law. Following a revocation of parole or conditional release, good time credits shall not be available to reduce the period of incarceration before a Kansas parole board hearing for reparole. Following a revocation of postrelease supervision, good time credits shall be available to reduce the incarceration penalty period as authorized by applicable statutes.

(2) "Allocation of good time credits" means the breakdown of the total number of established good time credits into groups of credits that are available to the inmate in separate time periods.

(3) To "earn good time credits" means that the inmate has acted in a way that merits a reduction of the term of actual imprisonment by those credits.

(4) "Award of good time credits" means the act of the unit team, as approved by the program management committee and the warden or designee, granting all or part of the allocation of credits available for the time period under review.

(5) "Application of good time credits" means the entry of the credits of forfeitures into the official record of the inmate and the consequent adjustment of parole eligibility, conditional release, the guidelines release date, or the guidelines sentence discharge date.

(6) "Forfeiture of good time credits" means the removal of the credits and consequent reinstatement of a term of actual imprisonment by the disciplinary board according to article 12 and article 13, as published in the inmate rule book.

(b) For purposes of sentence computation, as used in this article, terms dealing with sentence structure shall be defined as follows:

(1) "Composite sentence" means any sentence formed by the combination of two or more sentences.

(2) "Concurrent sentence" means two or more sentences imposed by the court with minimum and maximum terms, respectively, to be merged, or two or more sentencing guidelines sentences imposed by the court with their prison terms to be merged.

(3) "Consecutive sentence" means a series of two or more sentences imposed by the court in

which the minimum terms and the maximum terms, respectively, are to be aggregated, or a series of two or more sentencing guidelines sentences in which the prison terms are to be aggregated pursuant to K.S.A. 21-4720 and amendments thereto.

(4) “Controlling sentence” means the sentence made up of the controlling minimum term and the controlling maximum term of any sentence or composite sentence or the sentencing guidelines sentence made up of two or more sentences, whether concurrent or consecutive, that results in the longest prison term.

(5) “Aggregated controlling sentence” means a controlling sentence composed of two or more sentences. An aggregated controlling sentence has a minimum term consisting of the sum of the minimum terms and a maximum term consisting of the sum of the maximum terms. In the case of sentencing guidelines sentences, an aggregated controlling sentence has a prison term that is the sum of all the prison terms of the sentences that are aggregated, pursuant to K.S.A. 21-4720 and amendments thereto. The term “aggregated” shall be applied only to consecutive sentences.

(c) For purposes of sentence computation, as used in this article, terms dealing with sentence service credits, other than good time credits, shall be defined as follows:

(1) “Jail credit” and “JC” mean the time spent in confinement, pending the disposition of the case, before the sentencing to the custody of the secretary of corrections pursuant to K.S.A. 21-4614, and amendments thereto, or on or after May 19, 1988, time spent in a residential center while on probation or assignment to a community correctional residential services program, pursuant to K.S.A. 21-4614a and amendments thereto.

(2) “Maximum sentence credit” means the total period of incarceration served on a sentence beyond the limitation for credit awarded as prior penal credit. This credit shall be used to adjust the maximum expiration date of the sentence.

(3) “Prior penal credit” means the penal time credited for time the inmate previously was incarcerated on the sentence. Prior penal credit shall be given for time spent incarcerated on a sentence that has subsequently been aggregated due to the imposition of a consecutive sentence. This credit shall be limited to the time spent incarcerated on the previous sentence but shall not exceed an amount equal to the previous minimum sentence less the maximum amount of good time

credit that could have been earned on the minimum sentence under the law in effect at that time.

(4) “Program credit” means the pool of credits that serve to decrease the term of actual imprisonment awarded for a completion of a program designated by the secretary. Program credits shall not decrease or eliminate the sentence but shall function only to allow the inmate to earn the privilege of being released from incarceration earlier than the prison sentence adjusted for earned and retained good time credits. Program credits earned and retained while an offender is incarcerated shall be added to the offender’s post-release supervision period.

(d) For purposes of sentence computation, as used in this article, terms dealing with terms or length of sentences shall be defined as follows:

(1) “Controlling minimum term” means the length of the sentence to be served to reach the controlling minimum date as determined according to applicable case, statutory, and regulatory law.

(2) “Controlling maximum term” means the length of the maximum sentence imposed by the court that constitutes the longest required period of incarceration, determined according to applicable case and statutory law and these regulations.

(e) For purposes of sentences computation, as used in this article, terms dealing with calculation of specific dates in the execution of sentences shall be defined as follows:

(1) “Sentencing date” means the date on which the sentence is imposed by the court upon conviction. “Sentencing date” is also known as the sentence imposition date.

(2) “Sentence begins date” means the calendar date on which service of the sentence is to begin running. This date, as established by the court, shall reflect the time allowances as defined in jail time credit. This date shall be adjusted by department of corrections staff if prior penal credit is applicable. If no jail credit is involved but prior penal credit exists, the prior penal credit shall be subtracted from the sentence imposition date to determine the sentence begins date.

(3) “Controlling minimum date” means the calendar date derived by adding the controlling minimum term to the sentence begins date.

(4) “Controlling maximum date” means the calendar date derived by adding the controlling maximum term imposed by the court to the sentence begins date.

(5) “Guidelines release date” means, for of-

fenders with sentences imposed pursuant to the sentencing guidelines act, K.S.A. 21-4701 et seq. and amendments thereto, the date yielded by adding the prison portion of the sentence to the sentence, less any good time credits earned and awarded pursuant to K.S.A. 21-4722 and amendments thereto, plus any good time credits forfeited.

(6) "Conditional release date" and "CR date" mean the controlling maximum date minus the total number of authorized good time credits not forfeited.

(7) "Parole eligibility" means the status that results if the inmate has served the sentence required by law to the extent that the law allows the inmate's immediate release if the Kansas parole board grants a parole to that inmate.

(8) "Program release date" means the date the offender may be released with the application of the actually earned, awarded, and retained good time and program credits.

(f) For purposes of sentence computation, as used in this article, terms dealing with loss of forfeiture of sentence service credit while on parole or postrelease supervision status as well as escape status shall be defined as follows:

(1) "Postincarceration supervision" means supervision of any offender released to the community after service of the requisite term of incarceration. This term shall include both parole and postrelease supervision.

(2) "Abscond" means departing without authorization from a geographical area or jurisdiction prescribed by the conditions of one's parole or postrelease supervision.

(3) "Delinquent time lost on postincarceration status" and "DTLOPIS" mean the time lost on the service of sentence from which the offender was paroled or released to postrelease supervision due to being on absconder status after a condition violation warrant was issued and until the warrant was served.

(4) "Forfeited good time on postincarceration status" means the amount of good time ordered forfeited by the Kansas parole board from the amount earned from the date of authorized release to the date delinquent time on parole or postincarceration began or to the date of admission to a department of corrections facility.

(5) "Time lost on escape" means the time not counted on the service of sentence while the inmate is on escape status. This term shall mean the time from which the escape took place to the time

of apprehension. (Authorized by K.S.A. 21-4722, K.S.A. 2007 Supp. 75-5210, K.S.A. 75-5251; implementing K.S.A. 21-4608, K.S.A. 21-4722, K.S.A. 22-3717, K.S.A. 22-3725, K.S.A. 2007 Supp. 75-5210, K.S.A. 2007 Supp. 75-5217, K.S.A. 75-5251; effective May 1, 1981; amended, T-84-32, Nov. 23, 1983; amended May 1, 1984; amended Nov. 12, 1990; amended Sept. 6, 2002; amended June 1, 2007; amended Aug. 8, 2008.)

44-6-102. (Authorized by K.S.A. 75-5251, K.S.A. 1980 Supp. 75-5205; implementing K.S.A. 1980 Supp. 22-3717; effective May 1, 1981; revoked, T-84-32, Nov. 23, 1983; revoked May 1, 1984.)

44-6-103 to 44-6-105. Reserved.

44-6-106. Authority to interpret court documents. (a) Department of corrections' staff, authorized by the secretary of corrections, shall have the authority to analyze and interpret the journal entry of judgment, the judgment form, and any other documents from the court to the extent necessary to execute the sentence and commitment.

(b) Authorized staff shall include wardens, records officers, classification officers, sentence computation specialists, and attorneys.

(c) If correction of a journal entry is necessary, the authorized staff shall refer the matter to the sentencing court and notify either the county or district attorney and the defense attorney. (Authorized by K.S.A. 75-5210, 75-5251; implementing K.S.A. 21-4608, K.S.A. 2001 Supp. 22-3717, K.S.A. 75-5210, 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Sept. 30, 1991; amended Sept. 6, 2002.)

44-6-107. Application of law on date of crime; statutes repealed still applied. (a)(1) The statutes constituting the substantive law in effect at the time the crime is committed shall apply to compute the sentence term and the release dates. No subsequent change in the statute constituting substantive law shall be applied if that law adversely affects the inmate. Changes in statute constituting substantive law that benefit the inmate may be applied to compute the inmate's sentence term and the release dates, but shall not be required to be applied except in the computation of parole eligibility.

(2) Parole eligibility shall be computed by applying the statute in effect at the time the inmate committed the crime for which imprisoned unless

subsequent changes in the statute provide an earlier parole date. If the amendment would yield an earlier parole eligibility date, that amendment shall be applied. Statutes establishing the formula for computation of parole eligibility shall be considered substantive law and not procedural law.

(b) Any statute or regulation that has been repealed or revoked shall continue to apply to sentences of inmates if other statutes, regulations, or the principles of constitutional law require its terms to be applied to that inmate, or if law permits its continued application and the policy of the department of corrections is to continue its application for reasons of fairness or economy.

(c) The following chart shall establish the description of categories of law systems applicable to sentences of inmates who are subject to the custody of the secretary of corrections:

TITLE OF LAW SYSTEM	EFFECTIVE DATE OF APPLICATION	SESSION LAW OR STATUTORY REFERENCE
(1) "Old code"	All before July 1970	
(2) "New code"	After July 1, 1980	
(3) Penal reform act of 1973	After July 1, 1974	S.B. 72, L. 1973, ch. 339
(4) "Firearms mandatory," "mandatory firearms," "mandatory gun," "gun act," all referring to the combination of mandatory prison term and prohibition of parole before minimum is served.	After July 1, 1976	K.S.A. 21-4618 and K.S.A. 22-3717, L. 1976, ch. 168
(5) "Parole eligibility reform law"	On and after January 1, 1979	K.S.A. 22-3717, L. 1978, ch. 120
(6) "Aid and abet parole limitation"	After July 1, 1981	K.S.A. 22-3717, L. 1981, ch. 156
(7) "Parole eligibility law split"	After July 1, 1981	K.S.A. 22-3717, 22-3717a, L. 1981, ch. 156
(8) "Sentence toughening law" or "legislative good time credit law"	After July 1, 1982	H.B. 3104 and H.B. 2757, L. 1982, ch. 137 and 150
(9) "Previous consecutive credit limitation law"	After July 1, 1983	H.B. 2212, L. 1983, ch. 111, K.S.A. 21-4608(6), (d) and (e)
(10) "Sentencing guidelines act"	On or after July 1, 1993	S.B. 423, L. 1993, ch. 291, K.S.A. 21-4701 <i>et seq.</i> and K.S.A. 22-3717

(d) The history of the pertinent statutes shall be reviewed to determine the form of the law applicable at the time the crime was committed, as follows:

(1) K.S.A. 21-4608—Prior law: K.S.A. 62-1512, G.S. 1868, ch. 82, § 250, R.S. 1923, 62-1512, L. 1963, ch. 306, § 1, June 30, 1963, Repealed L. 1969, ch. 180, July 1, 1970; K.S.A. 62-2251, L. 1957, ch. 331, § 26; July 1, 1957, Repealed L. 1969, ch. 180; July 1, 1970; L. 1969, ch. 180, § 21-4608, July 1, 1970; L. 1978, ch. 120, § 8; January 1, 1979; L. 1982, ch. 150, § 1, July 1, 1982; L. 1983, ch. 111, § 1, July 1, 1983.

(2) K.S.A. 22-3717, L. 1970, ch. 129, § 22-3717, July 1, 1970; [L. 1972, ch. 317, § 90, Never Effective], L. 1973, ch. 339, § 88, July 1, 1974; L. 1974, ch. 403, § 10, July 1, 1974; L. 1975, ch. 203, § 1, July 1, 1975; L. 1976, ch. 168, § 2, July 1, 1976; L. 1978, ch. 120, § 13, January 1, 1979; L. 1979, ch. 94, § 2, July 1, 1979; L. 1981, ch. 156, § 1, July 1, 1981; L. 1982, ch. 137, § 3, July 1, 1982; L. 1982, ch. 150, § 2, July 1, 1982.

(3) K.S.A. 22-3717a, L. 1981, ch. 156, § 2, July 1, 1981, Repealed L. 1982, ch. 137, § 4, July 1, 1982.

(e) Statutes specifically relating to the granting of credit for time served shall be applied according to the terms, the court's order, and the statute, and their histories shall be described as follows:

(1) K.S.A. 21-4614. Prior law K.S.A. 62-1533, L. 1969, ch. 180, § 21-4614; L. 1979, ch. 124, § 13; L. 1972, ch. 317, § 101; L. 1973, ch. 339, § 72; L. 1980, ch. 104, § 2, April 24, 1980.

(2) K.S.A. 21-4608 [see subsection (d)].

(3) K.S.A. 22-3431. Prior law K.S.A. 62-1537; L. 1970, ch. 129, § 22-3431; L. 1971, ch. 114, § 8, July 1.

(4) K.S.A. 22-3717 [see subsection (d)].

(5) K.S.A. 22-3717a [see subsection (d)].

(6) K.S.A. 21-4614a. L. 1988, ch. 115, § 4, July 1, 1988; L. 1989, ch. 92, § 5, July 1, 1989. (Authorized by K.S.A. 75-5251, K.S.A. 75-5210; implementing K.S.A. 75-5251, K.S.A. 75-5210; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Sept. 6, 2002.)

44-6-108. Application of good time credits.

(a) For the purposes of awarding and applying good time credits, all calculations shall be based upon a year, which shall be considered a 360-day period with each month consisting of 30 days.

(b) Good time credits may be awarded by the warden of the correctional facility, the regional parole director, or the interstate compact administrator, or their designees.

(c) Good time credits may be awarded only for time served on a sentence on and after the beginning date of the sentence. Good time credits shall not be awarded for any period of time served before the sentence begins date. Good time credits shall not be awarded or withheld if a sentence is not being served due to an escape, or for delinquent time lost on postincarceration supervision. (Authorized by K.S.A. 2001 Supp. 21-4722, 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163,

Sec. 5, K.S.A. 2001 Supp. 22-3725, K.S.A. 75-5210, as amended by L. 2002, Ch. 154, Sec. 1, K.S.A. 75-5251; implementing K.S.A. 21-4608, 21-4722, K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5, K.S.A. 75-5210, as amended by L. 2002, Ch. 154, Sec. 1, K.S.A. 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Sept. 30, 1991; amended Sept. 6, 2002.)

44-6-108a to 44-6-114b. (Authorized by K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210; implementing K.S.A. 22-3427, 75-5251, K.S.A. 1983 Supp. 21-4608, 22-3717, 75-5210; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; revoked Nov. 12, 1990).

44-6-114c. Parole eligibility computation. (a) For concurrent and aggregated consecutive terms not involving class A felonies, parole eligibility shall be set at the minimum term less any award for good time credits. The minimum term, less good time credits awarded and retained, shall determine the parole eligibility date for concurrent and aggregated consecutive sentences for crimes committed before July 1, 1993, including sentences pursuant to K.S.A. 21-4618 and amendments thereto, but not including class A felonies.

(b) Concurrent class A felony sentences shall have a fixed parole eligibility date of 15 years, except as follows:

(1) For capital murder offenses committed on or after July 1, 1990 but before July 1, 1994, with a sentence imposed under former K.S.A. 21-4628, a parole eligibility date of 40 years shall be established.

(2) For capital murder offenses committed on or after July 1, 1994, but before July 1, 1999, if a death sentence is not imposed, then under K.S.A. 21-4635 and 21-4638, and amendments thereto, a parole eligibility date of 40 years shall be established.

(3) For capital murder offenses committed on or after July 1, 1999, if a death sentence is not imposed, then under K.S.A. 21-4635 and 21-4638, and amendments thereto, a parole eligibility date of 50 years shall be established.

(c) Parole eligibility for consecutive sentences that include one or more class A felonies shall be determined by the following:

(1) Computing the parole eligibility on the aggregate minimum terms for crimes that are not class A felonies; and

(2) adding an additional 15 years for each class A felony or, in the case of an offender whose class A felony was committed before July 1, 1994, and who was sentenced pursuant to the provisions of former K.S.A. 21-4628, an additional 40 years. A class A felony sentence shall be served first with the 15-year or 40-year parole eligibility period, as appropriate, added to the sentence begins date, to determine the parole eligibility date on the class A felony sentence. An additional 15 or 40 years, as appropriate, shall be added for each additional consecutive class A felony sentence. Good time credits shall not be applied to class A felony sentences. Good time credits shall be applied to non-class A felony sentences only after service of the fixed parole eligibility requirements for the class A felonies.

(d)(1) Except for a violation of K.S.A. 21-3402(a) and amendments thereto committed on or after July 1, 1996, but before July 1, 1999, parole eligibility for off-grid crimes shall be computed as follows:

(A) For off-grid crimes committed on or after July 1, 1993, but before July 1, 1994, parole eligibility shall be computed in the same manner as for class A felonies.

(B) For off-grid crimes committed on or after July 1, 1994, but before July 1, 1999, parole eligibility shall be computed in the same manner as for class A felonies except that the fixed parole eligibility date shall be at 15, 25, or 40 years, as specified by the court.

(C) For off-grid crimes committed on or after July 1, 1999, parole eligibility shall be computed in the same manner as for class A felonies except that the fixed parole eligibility date shall be at 20, 25, or 50 years, as specified by the court.

(2) For violations of K.S.A. 21-3402(a) committed on or after July 1, 1996, but before July 1, 1999, a fixed parole eligibility date of 10 years shall be established.

(3) Good time credits shall not be applied to that portion of a sentence controlled by a fixed parole eligibility date and shall be applied to sentencing grid crime sentences pursuant to K.S.A. 21-4722 and amendments thereto only after service of the fixed parole eligibility requirements for off-grid crimes. (Authorized by K.S.A. 75-5210, 75-5251; implementing K.S.A. 2001 Supp. 22-3717, K.S.A. 75-5210, 75-5251; effective Nov. 12, 1990; amended Sept. 30, 1991; amended Sept. 6, 2002.)

44-6-114d. Conditional release date. When computing a conditional release date, it shall be presumed that 100% of the available good time credits are earned. Conditional release good time credits may be forfeited in accordance with applicable regulations of the secretary. The conditional release date shall be based on the controlling maximum date. No conditional release date shall be computed for a maximum sentence of life. (Authorized by and implementing K.S.A. 2001 Supp. 22-3718, 22-3725, K.S.A. 75-5210, as amended by L. 2002, Ch. 154, Sec. 1, K.S.A. 75-5251; effective Sept. 6, 2002.)

44-6-114e. Guidelines release date. (a) Except for off-grid crimes, the prison portion of sentences for crimes committed on or after July 1, 1993 but before April 20, 1995, as well as crimes at non-drug severity levels 7 through 10 and drug grid severity levels 3 and 4 committed on or after January 1, 2008, may be reduced by no more than 20% through awarded and retained good time credits.

(b) Except for off-grid crimes, the prison portion of sentences for all crimes committed on or after April 20, 1995 but before January 1, 2008, as well as crimes at non-drug grid severity levels 1 through 6 and drug grid severity levels 1 and 2

committed on or after January 1, 2008, may be reduced by no more than 15% through awarded and retained good time credits. Partial days shall be rounded to the next whole number, but over the length of the sentence no more than 15% of the imprisonment portion of the sentence may be awarded as good time.

(c) Concurrent and consecutive sentences for off-grid crimes committed on or after July 1, 1993 shall not be subject to reduction through application of good time credits.

(d) For determinate sentences that are concurrent or consecutive with indeterminate sentences, good time may be awarded on the indeterminate sentence term as described in these regulations and applicable law.

(e) Good time credits awarded and retained on the prison portion of a determinate sentence shall be added to the period of postrelease supervision applicable to the offender's sentence.

(f) The following charts shall establish the good time credit rate for a 20% reduction of the prison portion of a determinate sentence.

(1) Total good time credits available for the length of sentence imposed.

(2) Except as provided in subsection (h), allocation of good time credits available during the service of sentence.

**TOTAL GOOD TIME AVAILABLE (20% RATE)
OFFENSES COMMITTED ON OR AFTER JULY 1, 1993 THROUGH APRIL 19, 1995**

<i>Length of Sentence [Months]</i>	<i>Possible Good Time Earned</i>			<i>Time To Serve [All GT Kept]</i>		
	<i>Years</i>	<i>Months</i>	<i>Days</i>	<i>Years</i>	<i>Months</i>	<i>Days</i>
5	0	1	0	0	4	0
6	0	1	6	0	4	24
7	0	1	12	0	5	18
8	0	1	18	0	6	12
9	0	1	24	0	7	6
10	0	2	0	0	8	0
11	0	2	6	0	8	24
12	0	2	12	0	9	18
13	0	2	18	0	10	12
14	0	2	24	0	11	6
15	0	3	0	1	0	0
16	0	3	6	1	0	24
17	0	3	12	1	1	18
18	0	3	18	1	2	12
19	0	3	24	1	3	6
20	0	4	0	1	4	0
21	0	4	6	1	4	24
22	0	4	12	1	5	18

<i>Length of Sentence [Months]</i>	<i>Possible Years</i>	<i>Good Time Months</i>	<i>Earned Days</i>	<i>Time to Serve [All GT Kept] Years</i>	<i>Months</i>	<i>Days</i>
23	0	4	18	1	6	12
24	0	4	24	1	7	6
25	0	5	0	1	8	0
26	0	5	6	1	8	24
27	0	5	12	1	9	18
28	0	5	18	1	10	12
29	0	5	24	1	11	6
30	0	6	0	2	0	0
31	0	6	6	2	0	24
32	0	6	12	2	1	18
33	0	6	18	2	2	12
34	0	6	24	2	3	6
35	0	7	0	2	4	0
36	0	7	6	2	4	24
37	0	7	12	2	5	18
38	0	7	18	2	6	12
39	0	7	24	2	7	6
40	0	8	0	2	8	0
41	0	8	6	2	8	24
42	0	8	12	2	9	18
43	0	8	18	2	10	12
44	0	8	24	2	11	6
45	0	9	0	3	0	0
46	0	9	6	3	0	24
47	0	9	12	3	1	18
48	0	9	18	3	2	12
49	0	9	24	3	3	6
50	0	10	0	3	4	0
51	0	10	6	3	4	24
52	0	10	12	3	5	18
53	0	10	18	3	6	12
54	0	10	24	3	7	6
55	0	11	0	3	8	0
56	0	11	6	3	8	24
57	0	11	12	3	9	18
58	0	11	18	3	10	12
59	0	11	24	3	11	6
60	1	0	0	4	0	0
61	1	0	6	4	0	24
62	1	0	12	4	1	18
63	1	0	18	4	2	12
64	1	0	24	4	3	6
65	1	1	0	4	4	0
66	1	1	6	4	4	24
67	1	1	12	4	5	18
68	1	1	18	4	6	12
69	1	1	24	4	7	6
70	1	2	0	4	8	0
71	1	2	6	4	8	24
72	1	2	12	4	9	18

<i>Length of Sentence [Months]</i>	<i>Possible Years</i>	<i>Good Time Months</i>	<i>Earned Days</i>	<i>Time to Serve [All GT Kept] Years</i>	<i>Months</i>	<i>Days</i>
73	1	2	18	4	10	12
74	1	2	24	4	11	6
75	1	3	0	5	0	0
76	1	3	6	5	0	24
77	1	3	12	5	1	18
78	1	3	18	5	2	12
79	1	3	24	5	3	6
80	1	4	0	5	4	0
81	1	4	6	5	4	24
82	1	4	12	5	5	18
83	1	4	18	5	6	12
84	1	4	24	5	7	6
85	1	5	0	5	8	0
86	1	5	6	5	8	24
87	1	5	12	5	9	18
88	1	5	18	5	10	12
89	1	5	24	5	11	6
90	1	6	0	6	0	0
91	1	6	6	6	0	24
92	1	6	12	6	1	18
93	1	6	18	6	2	12
94	1	6	24	6	3	6
95	1	7	0	6	4	0
96	1	7	6	6	4	24
97	1	7	12	6	5	18
98	1	7	18	6	6	12
99	1	7	24	6	7	6
100	1	8	0	6	8	0

**ALLOCATION OF GOOD TIME CREDITS
AVAILABLE DURING THE SERVICE OF
SENTENCE-20% RATE OFFENSES COM-
MITTED ON OR AFTER JULY 1, 1993
THROUGH APRIL 19, 1995**

<i>MONTHS SERVED</i>	<i>YEARS</i>	<i>TIME EARNED MONTHS</i>	<i>DAYS</i>	<i>MONTHS SERVED</i>	<i>YEARS</i>	<i>TIME EARNED MONTHS</i>	<i>DAYS</i>
				14		3	15
				15		3	23
				16		4	00
				17		4	08
				18		4	15
				19		4	23
				20		5	00
				21		5	08
				22		5	15
				23		5	23
				24		6	00
				25		6	08
				26		6	15
				27		6	23
				28		7	00
				29		7	08
				30		7	15
				31		7	23
1			08				
2			15				
3			23				
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							

<i>MONTHS SERVED</i>	<i>YEARS</i>	<i>TIME EARNED MONTHS</i>	<i>DAYS</i>	<i>MONTHS SERVED</i>	<i>YEARS</i>	<i>TIME EARNED MONTHS</i>	<i>DAYS</i>
32		8	00	71	1	5	23
33		8	08	72	1	6	00
34		8	15	73	1	6	08
35		8	23	74	1	6	15
36		9	00	75	1	6	23
37		9	08	76	1	7	00
38		9	15	77	1	7	08
39		9	23	78	1	7	15
40		10	00	79	1	7	23
41		10	08	80	1	8	00
42		10	15	81	1	8	08
43		10	23	82	1	8	15
44		11	00	83	1	8	23
45		11	08	84	1	9	00
46		11	15	85	1	9	08
47		11	23	86	1	9	15
48	1	00	00	87	1	9	23
49	1	00	08	88	1	10	00
50	1	00	15	89	1	10	08
51	1	0	23	90	1	10	15
52	1	1	00	91	1	10	23
53	1	1	08	92	1	11	00
54	1	1	15	93	1	11	08
55	1	1	23	94	1	11	15
56	1	2	00	95	1	11	23
57	1	2	08	96	2	00	00
58	1	2	15	97	2	00	08
59	1	2	23	98	2	00	15
60	1	3	00	99	2	00	23
61	1	3	08	100	2	01	00
62	1	3	15				
63	1	3	23				
64	1	4	00				
65	1	4	08				
66	1	4	15				
67	1	4	23				
68	1	5	00				
69	1	5	08				
70	1	5	15				

(g) The following charts shall establish the good time credit rate for a 15% reduction of the prison portion of a determinate sentence.

(1) Total good time credits available for the length of sentence imposed.

(2) Except as provided in subsection (h), allocation of good time credits available during the service of sentence.

**TOTAL GOOD TIME AVAILABLE (15% RATE)
OFFENSES COMMITTED ON OR AFTER APRIL 20, 1995**

<i>Length of Sentence [Months]</i>	<i>Possible Good Time Earned</i>			<i>Time to Serve [All GT Kept]</i>		
	<i>Years</i>	<i>Months</i>	<i>Days</i>	<i>Years</i>	<i>Months</i>	<i>Days</i>
5	0	0	23	0	4	7
6	0	0	27	0	5	3
7	0	1	2	0	5	28
8	0	1	6	0	6	24
9	0	1	11	0	7	19
10	0	1	15	0	8	15
11	0	1	20	0	9	10
12	0	1	24	0	10	6
13	0	1	29	0	11	1
14	0	2	3	0	11	27
15	0	2	8	0	12	22
16	0	2	12	0	13	18
17	0	2	17	0	14	13
18	0	2	21	0	15	9
19	0	2	26	0	16	4
20	0	3	0	0	17	0
21	0	3	5	0	17	25
22	0	3	9	0	18	21
23	0	3	14	0	19	16
24	0	3	18	0	20	12
25	0	3	23	0	21	7
26	0	3	27	0	22	3
27	0	4	2	0	22	28
28	0	4	6	0	23	24
29	0	4	11	0	24	19
30	0	4	15	0	25	15
31	0	4	20	0	26	10
32	0	4	24	0	27	6
33	0	4	29	0	28	1
34	0	5	3	0	28	27
35	0	5	8	0	29	22
36	0	5	12	0	30	18
37	0	5	17	0	31	13
38	0	5	21	0	32	9
39	0	5	26	0	33	4
40	0	6	0	0	34	0
41	0	6	5	0	34	25
42	0	6	9	0	35	21
43	0	6	14	0	36	16
44	0	6	18	0	37	12
45	0	6	23	0	38	7
46	0	6	27	0	39	3
47	0	7	2	0	39	28
48	0	7	6	0	40	24
49	0	7	11	0	41	19
50	0	7	15	0	42	15

<i>Length of Sentence [Months]</i>	<i>Possible Years</i>	<i>Good Time Months</i>	<i>Earned Days</i>	<i>Time to Serve [All GT Kept] Years</i>	<i>Months</i>	<i>Days</i>
51	0	7	20	0	43	10
52	0	7	24	0	44	6
53	0	7	29	0	45	1
54	0	8	3	0	45	27
55	0	8	8	0	46	22
56	0	8	12	0	47	18
57	0	8	17	0	48	13
58	0	8	21	0	49	9
59	0	8	26	0	50	4
60	0	9	0	0	51	0
61	0	9	5	0	51	25
62	0	9	9	0	52	21
63	0	9	14	0	53	16
64	0	9	18	0	54	12
65	0	9	23	0	55	7
66	0	9	27	0	56	3
67	0	10	2	0	56	28
68	0	10	6	0	57	24
69	0	10	11	0	58	19
70	0	10	15	0	59	15
71	0	10	20	0	60	10
72	0	10	24	0	61	6
73	0	10	29	0	62	1
74	0	11	3	0	62	27
75	0	11	8	0	63	22
76	0	11	12	0	64	18
77	0	11	17	0	65	13
78	0	11	21	0	66	9
79	0	11	26	0	67	4
80	1	0	0	0	68	0
81	1	0	5	0	68	25
82	1	0	9	0	69	21
83	1	0	14	0	70	16
84	1	0	18	0	71	12
85	1	0	23	0	72	7
86	1	0	27	0	73	3
87	1	1	2	0	73	28
88	1	1	6	0	74	24
89	1	1	11	0	75	19
90	1	1	15	0	76	15
91	1	1	20	0	77	10
92	1	1	24	0	78	6
93	1	1	29	0	79	1
94	1	2	3	0	79	27
95	1	2	8	0	80	22
96	1	2	12	0	81	18
97	1	2	17	0	82	13
98	1	2	21	0	83	9
99	1	2	26	0	84	4
100	1	3	0	0	85	0

ALLOCATION OF GOOD TIME CREDITS AVAILABLE DURING THE SERVICE OF SENTENCE-15% RATE OFFENSES COMMITTED ON OR AFTER APRIL 20, 1995				<i>MONTHS SERVED</i>	<i>YEARS</i>	<i>TIME EARNED MONTHS</i>	<i>DAYS</i>
				46		8	03
				47		8	09
				48		8	14
				49		8	19
				50		8	25
				51		9	00
				52		9	05
				53		9	10
				54		9	16
				55		9	21
				56		9	26
				57		10	02
				58		10	07
				59		10	12
				60		10	17
				61		10	23
				62		10	28
				63		11	03
				64		11	09
				65		11	14
				66		11	19
				67		11	24
				68		12	00
				69		12	05
				70		12	10
				71		12	16
				72		12	21
				73		12	26
				74	1	01	01
				75	1	01	07
				76	1	01	12
				77	1	01	17
				78	1	01	23
				79	1	01	28
				80	1	02	03
				81	1	02	08
				82	1	02	14
				83	1	02	19
				84	1	02	24
				85	1	03	00
				86	1	03	05
				87	1	03	10
				88	1	03	16
				89	1	03	21
				90	1	03	26
				91	1	04	01
				92	1	04	06
				93	1	04	12
				94	1	04	17
				95	1	04	23
				96	1	04	28

MONTHS SERVED	YEARS	TIME EARNED MONTHS	DAYS
97	1	05	03
98	1	05	08
99	1	05	14
100	1	05	19

(h) The charts in subsections (f) and (g) shall be used to compute the total pool of good time credits available on composite sentences for crimes committed on or after January 1, 2008, except that good time credit shall be allocated over the period of time equal to the inmate's composite sentence term less a number that is the sum of the total pool of available good time credits and four months. (Authorized by and implementing K.S.A. 21-4722, K.S.A. 2007 Supp. 75-5210, K.S.A. 75-5251; effective Sept. 6, 2002; amended Aug. 8, 2008.)

44-6-115. (Authorized by K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210; implementing K.S.A. 22-3427, 75-5251, K.S.A. 1983 Supp. 21-4608, 22-3717, 75-5210; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; revoked Sept. 6, 2002.)

44-6-115a. Awarding and withholding good time credits for incarcerated offenders.

(a) With the exception of calculation of good time credits affecting the conditional release dates, which are controlled by K.A.R. 44-6-114d, this regulation shall govern the award and withholding of good time credits.

(b) (1) At the conclusion of the initial inmate classification, 100% of the good time credits available from the sentence begins date to the date of the initial good time award shall be awarded, unless there is written documentation of maladjustment before the date of the initial award.

(2) The initial award of good time credits shall be made on the same day of the month on which the sentence was established. If a full month has not elapsed between the computed sentence begins date and the conclusion of the initial classification, good time credits shall not be awarded until the first classification review following the initial classification.

(c) Following the initial award, good time credits may be awarded at each classification review from credits available since the previous classification review.

(d) The following factors shall be considered in determining whether or not an inmate is awarded good time credits:

(1) The inmate's performance in a work assignment;

(2) the inmate's performance in a program assignment;

(3) the inmate's maintenance of an appropriate personal and group living environment;

(4) the inmate's participation in release planning activities;

(5) the inmate's disciplinary record; and

(6) any other factors related to the inmate's general adjustment, performance, behavior, attitude, and overall demonstration of individual responsibility and accountability.

(e) If an inmate refuses to work constructively or participate in assigned programs, 100% of the good time credits available for program classification review periods shall be withheld until the inmate participates in the assigned program at a time that permits the inmate to complete the program, unless the facility health authority determines that the inmate is physically or mentally incapable of working or participating in a particular program or detail.

(f) If an inmate fails to cooperate in the development of an acceptable release plan, the good time credits available for award during the 120-day period immediately before the inmate's projected or scheduled release date shall not be awarded.

(g) Award of good time credits shall be withheld on the basis of an inmate's disciplinary record in the following manner:

(1) If a facility disciplinary hearing officer finds the inmate guilty of a class I disciplinary offense, at least 50% of the good time credits available for that classification review period shall be withheld.

(2) If a facility disciplinary hearing officer finds the inmate guilty of a class II disciplinary offense, at least 25% but not more than 50% of the good time credits available for the classification review period shall be withheld. For purposes of this paragraph, summary disciplinary judgments pursuant to K.A.R. 44-13-201b shall not be considered a guilty finding.

(3) If a facility disciplinary hearing officer finds the inmate guilty of a class III disciplinary offense, at least 10% but not more than 25% of the good time credits available for that classification review period shall be withheld. For purposes of this paragraph, summary disciplinary judgments pursuant to K.A.R. 44-13-201b shall not be considered a guilty finding.

(4) If a facility disciplinary hearing officer finds

the inmate guilty of multiple disciplinary violations within a single disciplinary report, only the most serious violation shall be used in determining the percentage of good time credits to be withheld.

(h) The percentage of good time credits withheld during a classification review period shall be cumulative but shall not exceed 100% of that available for that classification review period.

(i) Good time credits and program credits forfeited as a result of a penalty imposed by a facility disciplinary hearing officer shall not be restored to an inmate. (Authorized by K.S.A. 21-4722, K.S.A. 2007 Supp. 75-5210, K.S.A. 75-5251; implementing K.S.A. 21-4722, K.S.A. 2007 Supp. 75-5210, K.S.A. 75-5251; effective Sept. 6, 2002; amended, T-44-3-11-03, March 11, 2003; amended July 25, 2003; amended Aug. 8, 2008.)

44-6-115b. Awarding and withholding good time credits for offenders on supervised release. (a) Offenders on supervised release may be awarded good time credits at the following rates:

(1) Offenders on parole release for indeterminate sentences shall be eligible for good time credits at the rate of one day of good time for each day under supervision and provided by K.A.R. 44-6-114d.

(2) For offenders convicted of crimes that were committed on or after July 1, 1993 but before April 20, 1995 and that fall into non-drug severity levels 1 through 4 or drug severity levels 1 or 2, the period of postrelease supervision shall be 24 months plus the amount of good time awarded and retained on the imprisonment portion of a sentence for such a conviction. Good time credits shall not be available for the reduction of post-release supervision.

(3) For offenders convicted of crimes committed on or after April 20, 1995 that fall into non-drug severity levels 1 through 4 or drug severity levels 1 or 2, the period of postrelease supervision shall be 36 months plus the amount of good time awarded and retained on the imprisonment portion of a sentence for such a conviction. The 36-month portion of the postrelease supervision period may be reduced by up to 12 months through award of good time credits. Awarded good time credits shall be applied at the rate of one day for every two days served from the date of release from prison, but not to exceed a total of 12 months. That portion of the period of postrelease

supervision resulting from the addition of good time credits awarded and retained while in prison pursuant to K.S.A. 21-4722(b) and amendments thereto shall not be reduced through application of good time credits while on postrelease supervision.

(4) For offenders who are convicted of crimes committed on or after July 1, 1993 that fall into non-drug severity levels 5 or 6 or drug severity level 3 and who are sentenced to serve a period of postrelease supervision, the period of post-release supervision shall be 24 months plus the amount of good time awarded and retained on the imprisonment portion of the sentence for any such conviction. The 24-month portion of the postrelease supervision period may be reduced by 12 months through award of good time credits. Awarded good time credits shall be applied at the rate of one day for each day served from the date of release from prison. That portion of the post-release supervision period resulting from application of good time credits awarded and retained while in prison shall not be subject to reduction through the application of good time credits while on postrelease supervision.

(5) For offenders who are convicted of crimes committed on or after July 1, 1993 that fall into non-drug severity levels 7 through 10 or drug severity level 4 and who are sentenced to serve a period of postrelease supervision, the period of postrelease supervision shall be 12 months plus the amount of good time awarded and retained on the imprisonment portion of the sentence for any such conviction. The 12-month portion of the period of postrelease supervision period may be reduced by six months through award of good time credits. Awarded good time credits shall be applied at the rate of one day for each day served from the date of release from prison. That portion of the postrelease supervision period resulting from application of good time credits awarded and retained while in prison shall not be subject to reduction through the application of good time credits while on postrelease supervision.

(b) All subsequent awards during a single supervision release period shall be made at six-month intervals, unless, in the judgment of the offender's parole officer, good cause exists to shorten the interval.

(c) No good time credits shall be awarded during the time an offender is on absconder status.

(d) Factors that shall be considered in determining whether or not an offender on supervised

release is awarded good time credits shall include the following:

- (1) Reporting to the parole officer as scheduled;
- (2) maintaining steady employment, participating in treatment, or both;
- (3) refraining from criminal activity;
- (4) following the conditions of release; and
- (5) maintaining appropriate behavior and demonstrating responsible and acceptable behavior.

(e) Any of the following violations, if committed by the offender during the review period, shall result in the withholding of 100% of the good time credits available during the review period:

(1) any felonious conduct established with probable cause by a district court, or any misdemeanor conviction, including driving under the influence (DUI) or driving while suspended (DWS);

(2) engagement in assaultive activities, violence, or threats of violence of any sort, or possession of a dangerous weapon, ammunition, or explosives as established by reliable information, including witness statements and police reports;

(3) engagement in contact with victims or contact with specific persons with whom contact is prohibited by special condition;

(4) violation of any specific prohibitions assigned to sex offenders;

(5) failure to agree to be subject to a search by any parole officer as specified by the conditions of supervision;

(6) refusal to provide urinalysis or to otherwise submit to substance abuse testing;

(7) any documented instance of use of drugs, alcohol, or inhalants, either through positive drug test results, admission, or based upon reliable information from law enforcement officials or a special enforcement officer, including police reports that an offender was drinking, huffing, or otherwise ingesting prohibited substances;

(8) refusal to take psychotropic medication as prescribed;

(9) refusal to maintain employment or participate in programs during the review period; or

(10) absconding from supervision.

(f) Any of the following violations shall result in the mandatory withholding of 50% of the good time credits available during the review period for each violation:

(1) Failure to make initial contact with the parole officer within the time frame specified on the release certificate or as otherwise directed;

(2) leaving the state of Kansas without permission;

(3) failure to report as directed on two occasions;

(4) violation of an imposed curfew;

(5) operation of a motor vehicle without a license, as established by parole officer observation; or

(6) possession of an illegal drug or commonly abused substance, including glue or paint, or of a mind-altering prescription drug prescribed for someone other than the offender as determined by admission, observation, police reports, or other reliable information.

(g) Any of the following violations shall result in the mandatory withholding of 25% of the good time credits available for the reward period for each violation:

(1) changing jobs without notifying the supervising officer;

(2) leaving the assigned supervision district without permission, but remaining in the state;

(3) failing to report once during the reporting period;

(4) moving from the place of residence without notifying the supervising officer; or

(5) failing to maintain steady employment.

(h) Failure to pay supervision fees as directed after determination that the offender is able but unwilling to pay shall result in the mandatory withholding of good time credits at the rate of 20% for each month in the review period that the offender fails to pay the monthly designated fee.

(i) The third or subsequent occurrence of one or more condition violations shall result in the withholding of an additional 50% of good time credits available, in addition to any withholding otherwise provided for by this regulation.

(j) Other violations not falling into the categories outlined in subsections (e) through (i) above may result in the withholding of 10% of the good time credits available for the reward period.

(k) If multiple violations occur resulting from the same set of circumstances, the most severe violation shall be utilized for consideration of the good time award.

(l) Violations resulting in the withholding of good time shall not serve as the basis for withholding additional good time during subsequent award periods.

(m) Good time credits shall be withheld during the award period in which the criteria for withholding good time has been met. The award of

good time for a review period for which good time has already been awarded may be adjusted upon the subsequent discovery of a violation committed during the review period in question or upon discovery of any error in computing good time credits. (Authorized by K.S.A. 2001 Supp. 22-3717; implementing K.S.A. 2001 Supp. 22-3717; effective Sept. 6, 2002.)

44-6-115c. Service of postrelease supervision revocation incarceration penalty period; awarding, withholding, and forfeiture of good time credits for offenders serving incarceration penalty period. (a) For offenders who were convicted of committing offenses on or after July 1, 1993, but before April 20, 1995, and whose postrelease supervision is revoked for reasons other than commission of a new crime, good time credits shall not be available for the purpose of reducing the applicable 90-day incarceration penalty period.

(b) For offenders convicted of crimes committed on or after April 20, 1995, and whose postrelease supervision is revoked for reasons other than commission of a new crime, good time credits may be earned toward reduction of the applicable six-month incarceration penalty period by up to three months. Awarded good time credits shall be applied at the rate of one day for each day served from the date of the revocation hearing or, if applicable, the effective date of waiver of the revocation hearing before the Kansas parole board.

(c) For offenders who are serving a sentencing guidelines sentence and whose postrelease supervision is revoked due to commission of a new crime, good time credits shall not be available to reduce the period of the incarceration penalty. Offenders whose postrelease supervision is revoked due to commission of a new felony shall serve the entire remaining balance of postrelease supervision in prison. Offenders whose postrelease supervision is revoked due to commission of a misdemeanor shall serve the remaining balance of postrelease supervision in prison unless released by order of the Kansas parole board.

(d) Awards of good time shall be made at 30-day intervals from the date of the revocation hearing before the board, or from the effective date of the waiver of the revocation hearing, as applicable. If an offender who waives the revocation hearing has not yet been transferred to a correctional facility when any 30-day interval occurs, the

initial award shall be made when the offender is so transferred. When the offender waives the revocation hearing before the board, 100% of good time credits available for any time spent in detention from the effective date of the waiver and before the offender's transfer to a correctional facility shall be awarded, unless there is written documentation of maladjustment during the detention.

(e) For purposes of forfeiture, award, and withholding of good time credits, offenders serving a postrelease revocation penalty period for reasons other than commission of a new crime shall be subject to the provisions of articles 12 and 13 of these regulations that prescribe rules of inmate conduct, penalties for violation thereof, and the procedures employed for processing charges of rules violations.

(f) The following factors shall be considered in determining whether or not an offender is awarded good time credits:

(1) The offender's performance in a work assignment;

(2) the offender's performance in a program assignment;

(3) the offender's maintenance of an appropriate personal and group living environment;

(4) the offender's participation in release planning activities;

(5) the offender's disciplinary record, unless the offender incurred a forfeiture of good time credits based on the same disciplinary conviction; and

(6) any other factors related to the offender's general adjustment, performance, behavior, attitude, and overall demonstration of individual responsibility and accountability.

(g) If an offender refuses to work constructively or to participate in assigned programs, 100% of the good time credits available for program classification review periods shall be withheld until the inmate participates in the assigned program at a time that permits the inmate to complete the program, unless the facility health authority determines that the offender is physically or mentally incapable or working or participating in a particular program or detail.

(h) If an offender fails to cooperate in the development of an acceptable release plan, the good time credits available for award during the 30-day period immediately before the offender's scheduled release date shall not be awarded.

(i) Award of good time credits shall be withheld

on the basis of an offender's disciplinary record in the following manner:

(1) If a facility disciplinary hearing officer finds the offender guilty of a class I disciplinary offense, at least 50% of the good time credits available for that classification review period shall be withheld.

(2) If a facility disciplinary hearing officer finds the offender guilty of a class II disciplinary offense, at least 25% but not more than 50% of the good time credits available for that classification review period shall be withheld.

(3) If a facility disciplinary hearing officer finds the offender guilty of a class III disciplinary offense, at least 10% but not more than 25% of the good time credits available for that classification review period shall be withheld. For purposes of this paragraph, summary disciplinary judgments pursuant to K.A.R. 44-13-201b shall not be considered a guilty finding.

(4) If a facility disciplinary hearing officer finds the offender guilty of multiple disciplinary violations within a single disciplinary report, only the most serious violation shall be used in determining the percentage of good time credits that shall be withheld.

(j) The percentage of good time credits withheld during a classification review period shall be cumulative but shall not exceed 100% of that available for that classification review period. Good time credits awarded and applied during the final review period shall not vest until the offender is actually released from the incarceration penalty period and may be withheld due to the offender's misconduct before actual release.

(k) Good time credits forfeited as a result of a penalty imposed by a facility disciplinary hearing officer shall not be restored to an offender. (Authorized by and implementing K.S.A. 2001 Supp. 75-5217; effective Sept. 6, 2002.)

44-6-116. Allocation of good time credits for crimes committed prior to July 1, 1982. The amount of statutory good time credit available for each unit team review period, as such period is authorized by the Kansas adult authority regulations, shall be allocated as follows:

**TABLE: DEPARTMENT OF CORRECTIONS
ALLOCATION OF GOOD TIME CREDITS
ESTABLISHED BY KANSAS ADULT AUTHORITY**

# Month Time Served	Monthly Good Time Allocation	Maximum Cumulative Allocations	Length Of Sentence	Time To Be Served If All Good Time Awarded
1st Mo.	6 Days			
2nd Mo.	6 Days			

# Month Time Served	Monthly Good Time Allocation	Maximum Cumulative Allocations	Length Of Sentence	Time To Be Served If All Good Time Awarded
3rd Mo.	6 Days			
4th Mo.	6 Days			
5th Mo.	6 Days			
6th Mo.	6 Days			
7th Mo.	6 Days			
8th Mo.	6 Days			
9th Mo.	6 Days			
10th Mo.	6 Days	2 Months	1 Year	10 Months
11th Mo.	15 Days			
12th Mo.	15 Days			
13th Mo.	15 Days			
14th Mo.	15 Days			
15th Mo.	15 Days			
16th Mo.	15 Days			
17th Mo.	15 Days			
18th Mo.	15 Days	6 Months	2 Years	1 Year 6 Months
19th Mo.	30 Days			
All thereafter	30 Days			

This allocation shall apply to offenses committed prior to July 1, 1982. (Authorized by K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210; implementing K.S.A. 22-3427, 75-5251, K.S.A. 1983 Supp. 21-4608, 22-3717, 75-5210; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984.)

44-6-117. (Authorized by K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210; implementing K.S.A. 22-3427, 75-5251, K.S.A. 1983 Supp. 21-4608, 22-3717, 75-5210; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; revoked Sept. 6, 2002.)

44-6-118 and 44-6-119. Reserved.

44-6-120. (Authorized by K.S.A. 1990 Supp. 75-5210, 75-5251; implementing K.S.A. 1990 Supp. 21-4608, K.S.A. 22-3427; K.S.A. 1990 Supp. 22-3717, as amended by L. 1991, ch. 94, § 1; K.S.A. 1990 Supp. 75-5210, 75-5251; effective, T-84-32, Nov. 23, 1983; amended May 1, 1984; amended Nov. 12, 1990; amended Sept. 30, 1991; amended April 6, 1992; revoked Sept. 6, 2002.)

44-6-121. Docketing parole hearings. For the purpose of docketing a parole hearing, it shall be presumed that the inmate will earn and be awarded the full amount of good time credit available for the period between docketing and parole eligibility. If the good time is in fact not earned and awarded, the warden or warden's designee shall notify the Kansas parole board so the name may be removed from the docket, and the release date extended accordingly, or so that other appropriate disposition may be made as deemed appropriate by the Kansas parole board. The records officer shall show the good time credits award for the last review period at 100% of available good time credits, subject to notice by the

unit team that it is otherwise. (Authorized by K.S.A. 75-5210, as amended by 1990 S.B. 748, § 48; 75-5251, as amended by 1990 S.B. 748, § 60; implementing K.S.A. 22-3427; K.S.A. 1989 Supp. 21-4608, 22-3717, K.S.A. 75-5210, as amended by 1990 S.B. 748, § 48; 75-5251, as amended by 1990 S.B. 748, § 60; effective, T-84-32, Nov. 23, 1983; amended May 1, 1984; amended Nov. 12, 1990.)

44-6-122 and 44-6-123. Reserved.

44-6-124. (Authorized by and implementing K.S.A. 1993 Supp. 22-3725; effective, T-84-32, Nov. 23, 1983; amended May 1, 1984; amended Nov. 12, 1990; amended Sept. 30, 1991; amended April 6, 1992; amended Sept. 13, 1993; amended Jan. 3, 1995; revoked Sept. 6, 2002.)

44-6-125. Good time forfeitures not restored; exceptions; limits; parole; guidelines release date. (a) On and after May 1, 1981, no good time restored. For all inmates, good time that was forfeited on and after May 1, 1981 shall not be restored at a later date. An exception may be requested by the warden in order that standards of basic fairness, equity, and justice may be met. In such a case, good cause for restoration of good time credits shall be shown, in writing, by the warden to the secretary or the secretary's designee. Restoration of good time credits by exception shall be granted only upon written approval by the secretary or the secretary's designee. Good time forfeited before the first effective date of this regulation, May 15, 1980, may be restored in accordance with the secretary of corrections' policies and procedures then in force and effect. Good time credits that are eligible for award but have not yet actually been awarded due to an administrative error or omission may be forfeited.

(b) Forfeit only on minimum until parole eligibility. Before parole eligibility, forfeited good time credits shall be subtracted from the amount of good time credits earned toward the parole eligibility only, and not from those credits used to create the conditional release date. After parole eligibility is achieved, subsequent forfeited credits shall be subtracted from the credits used to form the conditional release date.

(c) Forfeitures limited to awards; no extension of maximum. Good time credits shall not be forfeited in an amount in excess of the good time earned before the disciplinary conviction. If an inmate receives an award of jail credit from the sentencing court after issuance of the original journal

entry of sentencing and the sentence computation is revised accordingly, previous forfeitures of good time credits shall not be revised or modified. In cases of a new sentence conviction, disciplinary offenses occurring before the effective date of the new sentence that result in the forfeiture of good time credits shall not be applied to the computation. In no case shall forfeiture of good time credits extend the controlling maximum sentence, nor shall the forfeiture interfere with or bypass any statutorily fixed parole eligibility that is not controlled by good time credits.

(d) No parole eligibility if forfeited time remains unserved. If good time credits on the term have been forfeited, an inmate shall not be eligible for parole until the inmate has served the time that otherwise would have been subtracted from the term by the application of the credits, or has obtained a restoration of those credits.

(e) In the case of an offender serving a guidelines sentence, forfeiture of good time credits shall affect the guidelines release date. Good time credits shall not be forfeited in an amount in excess of good time previously earned.

(f) Forfeitures made by disciplinary process. Forfeiture of good time credits or program credits may be ordered by the disciplinary board or hearing officer as a penalty for the inmate's commission of certain offenses as set out in articles 12 and 13 of these regulations. (Authorized by K.S.A. 21-4722, K.S.A. 2007 Supp. 75-5210, K.S.A. 75-5251; implementing K.S.A. 21-4722, K.S.A. 22-3717, K.S.A. 2007 Supp. 75-5210, K.S.A. 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Nov. 12, 1990; amended April 6, 1992; amended Sept. 6, 2002; amended June 1, 2007; amended Aug. 8, 2008.)

44-6-126. Meritorious good time. (a) For any inmate incarcerated for crimes committed before July 1, 1982, "meritorious" good time credits may be recommended to the Kansas parole board for any meritorious act by an inmate, if deemed appropriate by the unit team and subject to the approval of the program management committee and the warden.

(1) The action taken on this recommendation by the Kansas parole board shall be recorded in the inmate's record by the records officer at the institution.

(2) The application of these "meritorious" good time credits shall be in addition to other authorized good time credits.

(b) For any offenses committed on and after July 1, 1982, but before July 1, 1984, no meritorious good time credits shall be given.

(c) For any offenses committed on and after July 1, 1984, but before July 1, 1993, meritorious good time shall again be available, and an inmate may be awarded not more than 90 days per meritorious act by the secretary of corrections in accordance with the provisions of K.S.A. 22-3717(a) and amendments thereto. (Authorized by K.S.A. 75-5210, as amended by L. 2002, Ch. 154, Sec. 1, K.S.A. 75-5251; implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5, K.S.A. 75-5210, as amended by L. 2002, Ch. 154, Sec. 1, K.S.A. 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended, T-85-37, Dec. 19, 1984; amended May 1, 1985; amended Nov. 12, 1990; amended Sept. 30, 1991; amended Sept. 6, 2002.)

44-6-127. Program credits. (a) Program credits may be earned on the prison portion of a sentence for crimes at non-drug severity levels 4 through 10 and drug grid severity levels 3 and 4 committed on or after January 1, 2008, for successful completion of programs designated by the secretary of corrections. These credits shall be in addition to good time credits awarded pursuant to K.A.R. 44-6-115a.

(b)(1) Subject to the exception stated in this subsection, if any portion of an inmate's composite sentence does not qualify for application of program credits, the inmate's entire sentence shall be found to be ineligible.

(2) Notwithstanding paragraph (b)(1), any inmate serving a composite sentence consisting of a sentence for a crime committed before July 1, 1993, with an indeterminate term of years, which shall mean a term other than a sentence of life imprisonment or a sentence with a maximum term of life imprisonment, and a determinate sentence for an offense committed while on release that otherwise meets the criteria specified in this regulation may be eligible to earn program credits on the remaining determinate sentence if the inmate meets any of the following conditions:

- (A) Is paroled to the determinate sentence;
- (B) attains conditional release; or
- (C) reaches the maximum sentence expiration date on the indeterminate sentence.

(c) Program credits shall not be awarded for successful completion of a sex offender treatment program.

(d) Program credits shall not exceed 60 days on any one eligible controlling sentence, regardless of the number of programs completed. For the purposes of awarding and applying program credits, all calculations shall be based upon a year, which shall be considered a 360-day period with each month consisting of 30 days.

(e) Program credits earned and retained on the prison portion of the sentence shall be added to the inmate's postrelease supervision term.

(f) Earned program credits may be forfeited through the disciplinary process in the same manner as that for any other earned good time credits.

(g) Criteria to determine if an inmate's performance and conduct warrant the awarding of some or all of the available program credits shall be established by the secretary through the issuance of an internal management policy and procedure. (Authorized by and implementing K.S.A. 21-4722; effective Aug. 8, 2008.)

44-6-128. Adjustments of previous awards of good time credits; scope of review and decision-making procedure; effect of noncompliance with procedure. (a) The procedures specified in K.A.R. 44-6-129 through K.A.R. 44-6-132 shall be used by department of corrections staff to correct an error made in regard to an award of good time credits for a prior classification review or award period that will result in a decrease in the amount of good time credit previously awarded to the inmate or supervised offender.

(b) The scope of the review and decision-making procedures shall be confined to the good time credits associated with the review or award period or periods identified in the notice to the inmate or offender described in K.A.R. 44-6-129.

(c) A failure to follow any part of the procedure outlined in K.A.R. 44-6-129 through K.A.R. 44-6-132, including observance of deadlines, shall not be considered to constitute substantial error indicating that appropriate relief should be granted by the appellate review officer, unless the inmate or offender shows affirmatively that the error in question has actually interfered with the inmate or offender's rights to such a degree that justice has been denied to the inmate or offender. (Authorized by and implementing K.S.A. 21-4722 and K.S.A. 2007 Supp. 75-5210; effective Aug. 8, 2008.)

44-6-129. Same; notice of proposed action; service; election of hearing or waiver;

hearing officer designation; issuance and service of notice of hearing; requests for witnesses.

(a) The supervising correctional counselor in the case of inmates as well as offenders serving an incarceration penalty period for revocation of postrelease supervision status, or the supervising parole officer in the case of offenders serving postrelease supervision, shall prepare a concise written statement on a form prescribed by the secretary that notifies the inmate or offender of the proposed action and includes the following information:

(1) The amount of good time credit previously awarded that is proposed for removal from the pool of earned and awarded credits and either the revised release date or sentence discharge date, or both, that would result from the proposed adjustment;

(2) review or award periods affected;

(3) reason or reasons for the proposed decrease in credits previously awarded, in sufficient detail to permit the inmate or offender a reasonable opportunity to know and either contest or otherwise reply to the proposed adjustment, including attachment of a copy of each document referenced in the statement of reasons;

(4) a statement advising the inmate or offender of the opportunity for a hearing on the proposed adjustment in which the inmate or offender will have opportunity to present an oral statement, statements by any other witnesses who agree to voluntarily participate in the hearing, and any relevant documentary evidence, including affidavits submitted in lieu of in-person statements at the hearing to an impartial decision-maker;

(5) a provision permitting the inmate or offender to affirmatively elect to have such a hearing, or alternatively to waive the hearing and accept the proposed adjustment;

(6) the signature of the supervising correctional counselor or parole officer; and

(7) an acknowledgment of receipt of the notice by the inmate or offender.

(b) The original and one copy of the notice of proposed adjustment shall be personally presented to the inmate or offender by any suitable staff member, including the proposing correctional counselor or parole officer, who shall obtain the inmate or offender's signature on the acknowledgment of receipt form on the original. If the inmate or offender refuses to sign the receipt form, the serving staff member shall document the refusal and leave a copy of the notice form

with the inmate or offender. The inmate or offender may elect to request a hearing or waive the hearing at time of presentation of the notice form and shall indicate that person's decision in that regard on the original of the notice form, which shall be returned to the proposing correctional counselor or supervising parole officer by the end of the next working day. A waiver of hearing shall be witnessed by a staff member other than the staff member proposing the adjustment.

(c) If the inmate or offender does not make an affirmative election to proceed with or to waive the hearing at time of presentation of the notice, it shall be presumed that the hearing on the proposed adjustment shall proceed. The matter shall be referred to an impartial supervisory-level staff member designated as a hearing officer by the warden of the facility, or the regional parole director, on either a standing or a case-by-case basis. The hearing officer shall not be the immediate supervisor of the correctional counselor or parole officer proposing the action.

(d) The hearing officer shall issue written notice of the date, time, and location of the hearing both to the inmate or offender and to the proposing staff member. The hearing notice shall be personally served upon the inmate or offender by any suitable staff member, including the proposing staff member. The hearing shall not be scheduled to occur any earlier than 24 hours after time of presentation of the notice of proposed adjustment, unless the inmate or offender chooses to waive that time period in writing on a form prescribed by the secretary for that purpose.

(e) If time permits after service of the notice of proposed action, the inmate or offender may submit a written request by interdepartmental correspondence form or ordinary correspondence, as applicable, to the designated hearing officer requesting that the hearing officer summon a witness or witnesses for voluntary appearance at the hearing. The written request shall include a proffer of the substance of the statement expected to be made by the witness. The hearing officer may deny the requested witness appearance if the proffered statement is deemed by the hearing officer to be clearly irrelevant, immaterial, repetitious of other witness statements not including those of the inmate or offender, or unduly risky to personal or facility safety. If so denied, the hearing officer shall record each reason for denial in the hearing officer's written decision following the hearing. (Authorized by and implementing

K.S.A. 21-4722 and K.S.A. 2007 Supp. 75-5210; effective Aug. 8, 2008.)

44-6-130. Same; hearing procedure; written decision; service upon inmate or offender; effect of a denial of proposed action.

(a) Each hearing shall be conducted according to the following:

(1) The proposing staff member shall present a concise explanation, outlining the facts and law applicable to the proposed action that require a decrease in the pool of previously awarded good time credits in the opinion of the staff member. The proposing staff member may choose to stand upon that person's statement of reasons for the proposed adjustment set forth in the notice of proposed action in lieu of an oral statement. A copy of each document relied upon by the proposing staff member shall be submitted to the hearing officer. Cross-examination by the inmate or offender shall not be permitted, but the hearing officer may freely question the proposing staff member throughout the hearing, as deemed necessary, in order to discover the truth as to any disputed facts or to better understand legal propositions submitted by the staff member in support of the proposed action.

(2) The offender or inmate shall then be given an opportunity to present a response to the proposed action, which may consist of an oral statement of facts or applicable legal authorities, or both, statements from other witnesses who voluntarily appear at the hearing, or any documentary evidence, including affidavits from witnesses. The inmate or offender may also initially request that the hearing officer summon a witness or witness if submission of a written request for issuance of summons in advance of the hearing, as permitted by K.A.R. 44-6-129, was not practicable under the circumstances in the hearing officer's judgment. The hearing officer may require a proffer of the expected statement from any witness so requested and may deny the request if the proffered statement is deemed by the hearing officer to be one or more of the following:

(A) Irrelevant, immaterial, or otherwise unnecessary;

(B) repetitious of the statement of another witness or witnesses, not including that of the inmate or offender; or

(C) unduly risky to personal or facility safety.

If a proffered statement is denied, the hearing officer shall record each reason for denial in the

hearing officer's written decision following the hearing. Cross-examination shall not be permitted, but the hearing officer may question the inmate or offender, or other witness presented, as deemed necessary by the hearing officer in order to discover the truth of any disputed facts or to better understand legal propositions submitted by the inmate or offender in opposition to the proposed action.

(3) Subject to approval of the hearing officer, the proposing staff member may present a brief rebuttal, which shall be limited to responding to new factual contentions or legal arguments in statements or documents presented by the inmate or offender.

(4) The hearing officer may hear statements by telephone. If statements are received by telephone, each statement shall be taken in such a manner that all individuals present can hear the statement simultaneously. The statement shall be otherwise subject to the same requirements for presentation and reception as those for in-person statements.

(5) The hearing officer may take notes of the statements and other evidence submitted. All statements shall be unsworn. If notes of statements are taken, the notes shall be preserved and attached to the hearing officer's written decision. If documentary evidence is considered, a copy of the evidence shall be attached to the decision, and the original shall be returned to the party offering the evidence.

(6)(A) Before or after the hearing, the hearing officer may freely consult all relevant classification and parole supervision records that pertain to the review or award period or periods specified in the notice of proposed action, including the following:

- (i) Chronological notes;
- (ii) police reports;
- (iii) correspondence;
- (iv) drug testing results;
- (v) program reviews;
- (vi) progress reports from treatment or program providers;
- (vii) discharge notes or reports;
- (viii) certificates of completion; and
- (ix) disciplinary reports and records of convictions.

The hearing officer may consult these records outside the presence of the inmate or offender.

(B) If the hearing officer intends to rely upon any record specified in (a)(6)(A) that has not already been served upon the inmate or offender in

either upholding or modifying a proposed adjustment of an award of good time credits, the hearing officer shall make that intention known to the inmate or offender in writing and shall provide to the inmate or offender a copy of each record, which may be redacted if necessary to protect the safety and identity of a confidential informant or to protect victim information.

(7) The inmate or offender shall have five working days from date of the notification from the hearing officer to submit a written response, which the hearing officer shall receive and duly consider before making a final decision in the matter.

(8) The hearing officer shall not discuss with the counselor or officer the contents of any such records, or any piece of evidence received at the hearing, outside the presence of the inmate or offender.

(9) If the hearing officer during the course of review of relevant documentation discovers a factual basis for proposing that a greater amount of good time credit should be removed than was originally proposed, the hearing officer shall issue a second notice of proposed action setting forth each reason and attaching any relevant documents relied upon for that proposal, which shall be served upon the inmate or offender by the end of the next working day. If the inmate or offender requests a further hearing on the new notice of proposed action, a new hearing officer shall be designated, and the matter shall be processed as otherwise provided in these regulations.

(b) After the hearing is completed and any post-hearing procedure as stated in paragraph (a) (6), (7) or (9) is also completed, the hearing officer shall proceed within five working days to write and issue a decision that upholds, modifies, or denies the proposed action. The decision shall be concisely written and shall express the hearing officer's findings of fact and reasoning for taking the action decided upon. While the hearing officer may discuss the various theories and contentions of the parties, it shall not be necessary that a comprehensive or exhaustive opinion touching on all points of dispute be produced.

(c) The decision shall be served upon the inmate or offender within two working days after its issuance by the hearing officer. A written, dated receipt shall be obtained from the inmate or offender upon service of the decision.

(d) A decision to deny a proposed action shall not be subject to appeal, and the good time award

record and associated release and sentence discharge dates shall be left unchanged. (Authorized by and implementing K.S.A. 21-4722 and K.S.A. 2007 Supp. 75-5210; effective Aug. 8, 2008.)

44-6-131. Same; appeal procedure. (a) If an inmate or offender desires to appeal the decision of a hearing officer that upholds the proposed action or modifies the decision by deciding that a greater or smaller amount of good time credit than originally proposed should be removed from the pool of awarded good time credits, the inmate or offender may submit a written appeal within three working days of the inmate or offender's receipt of the hearing officer's decision. The appeal shall be submitted to the inmate's unit team manager or to the parole supervisor who supervises the offender's parole officer, who shall note filing of the appeal. The modification of the inmate's or offender's good time awards and associated release or sentence discharge date, or both, in the relevant departmental database or databases shall be postponed during the appeal.

(b) The unit team manager or parole supervisor shall then forward the appeal, along with a copy of the hearing officer's decision and the notice of proposed action, which shall be provided free of charge, within two working days to the deputy secretary of facilities management in the case of inmates or to the deputy secretary of community and field services in the case of offenders on post-release supervision. Those officials or their respective designees shall then proceed to determine the merits of the appeal within 10 working days of receipt and shall issue a brief written decision that upholds or modifies the hearing officer's decision.

(c) The decision on the appeal shall be sent within two working days to the unit team manager or parole supervisor, as applicable, and shall then be personally served upon the inmate or offender by the end of the next working day. A written, dated receipt shall be secured from the inmate or offender upon service and shall be filed with all other papers regarding the matter in the inmate's master file or the postreleasee's supervision file.

(d) If a successful appeal of the hearing officer's decision would cause the inmate to be immediately released or an offender on postrelease supervision to be immediately sentence-discharged, upon submission of the appeal, the appeal shall be handled as the highest priority at each level. (Authorized by and implementing K.S.A. 21-4722 and

K.S.A. 2007 Supp. 75-5210; effective Aug. 8, 2008.)

44-6-132. Entry of adjustments of good time awards in relevant departmental database or databases. (a) Unless the inmate or offender files an appeal according to K.A.R. 44-6-131, the decision by the hearing officer either to uphold the proposed action or to modify the action to remove a greater or smaller amount of previously awarded good time credit shall be implemented by entering the adjusted good time award for the review or award periods affected in each relevant departmental database no earlier than four working days after the inmate or offender receives a copy of the decision.

(b) If an appeal is filed, any action to enter the adjusted good time award shall be suspended during the appeal. If the hearing officer's decision is either upheld or modified to order that a smaller amount of awarded good time credit be removed, the unit team manager or parole supervisor shall then make the necessary entries in the relevant departmental database or databases to cause a change in the release or sentence discharge date, or both.

(c) If an appeal is sustained, the good time awards in question shall remain unchanged. The release or sentence discharge date, or both, shall also remain unchanged. (Authorized by and implementing K.S.A. 21-4722 and K.S.A. 2007 Supp. 75-5210; effective Aug. 8, 2008.)

44-6-133. (Authorized by K.S.A. 1990 Supp. 75-5210, 75-5251; implementing K.S.A. 22-3427, K.S.A. 1990 Supp. 21-4608, 22-3717, 75-5210, 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Sept. 30, 1991; revoked Sept. 6, 2002.)

44-6-134. Jail credit time. (a) Jail credit shall not be used in the sentence computation unless an authorization appears in the journal entry of judgment form. If only the number of days of jail credit earned is contained in the journal entry, the records officer shall compute the sentence begins date by subtracting jail credit from the date of sentencing. The amount of jail credit shall not adjust the sentence begins date so that it falls before the date of commission of the offense.

(b) Jail credit shall be awarded for time spent in custody by an offender pending disposition of charges on the earlier sentence if consecutive sentences are imposed on different dates. The credits

on the earlier sentence shall be computed so that the credits do not overlap into the latest imposed sentence. The credits for time spent previously in custody pending disposition of charges shall be recorded as jail credit, but the credit shall not exceed an amount equal to the previous minimum sentence less the maximum number of good time credits that could have been earned on the minimum sentence. The remainder of credits shall be recorded as sentence maximum credits to apply to the maximum date. If prior penal credit was included as jail credit by the court, the credit shall be shown as jail credit.

(c) Jail credit shall be awarded for time spent in custody by an offender pending disposition of charges on an earlier sentence if consecutive guidelines sentences are imposed on different dates. The credits on an earlier sentence shall be computed so that the credits do not overlap into any sentence imposed after the earlier sentence was imposed.

(d) Jail credit shall be awarded for time spent in custody by an offender pending disposition of charges if consecutive guidelines sentences are imposed on the same date. However, the credits shall be computed so that they do not overlap from one sentence into any other sentence. (Authorized by K.S.A. 75-5251; implementing K.S.A. 21-4608, K.S.A. 2001 Supp. 21-4614, K.S.A. 21-4614a, 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Nov. 12, 1990; amended Sept. 30, 1991; amended Sept. 6, 2002.)

44-6-135. Prior penal credit. (a) Prior penal credit shall be computed and applied by department of corrections' personnel.

(b) To compute prior penal credit for court releases, the effective date of the sentence shall be subtracted from the date of the final disposition of the court by release on probation, appeal bond, or vacating of the sentence. Pre-sentence evaluation time spent at the Topeka correctional facility or any other facility designated by the secretary of corrections shall not be considered as prior penal credit, but shall be considered jail credit.

(c) To compute prior penal credit for an aggregate sentence, the sentence begins date of the earlier, controlling minimum sentence date shall be subtracted from the release date and applied as follows:

(1) The actual time incarcerated, not exceeding an amount equal to the previous minimum sentence less the maximum amount of good time

credit that could have been earned under the law in effect at the time, shall be the prior penal credit available.

(2) The prior penal credit for a mandatory minimum sentence imposed prior to July 1, 1982 shall be restricted to a total credit equal to the actual time served prior to July 1, 1982, and the remaining minimum time to serve less all good time credits which could have been earned after July 1, 1982.

(3) The prior penal credit for a life sentence shall not exceed 15 years or the aggregated 15 years. The remainder of the credit shall be credited as maximum sentence credit.

(4) Accelerated parole eligibility dates under K.S.A. 1988 Supp. 22-3725 shall be credited to May 19, 1988 if the accelerated date was prior to the effective parole eligibility date under that statute.

(5) Accelerated parole eligibility dates under K.S.A. 1989 Supp. 22-3725 shall be credited to August 1, 1989 if the accelerated parole eligibility date was prior to the effective date of that statute.

(6) Parole eligibilities between July 1974 and January 1979, which were established at the discretion of the secretary of corrections upon attainment of the lowest minimum custody status, shall be credited with the actual time served from the sentence begins date of the earlier controlling minimum sentence. This credit shall not exceed the maximum amount of good time credits provided by K.A.R. 44-6-116 that could have been earned on the minimum sentence.

(d) Computations of prior penal credit shall be subject to the provisions of K.A.R. 44-6-134, 44-6-136, 44-6-137, and 44-6-138. (Authorized by K.S.A. 1990 Supp. 75-5210, 75-5251; implementing K.S.A. 1990 Supp. 21-4608, K.S.A. 22-3427; K.S.A. 1990 Supp. 22-3717, as amended by L. 1991, ch. 94, § 1; K.S.A. 1990 Supp. 75-5210, 75-5251; effective, T-84-32, Nov. 23, 1983; amended May 1, 1984; amended Nov. 12, 1990; amended Sept. 30, 1991; amended April 6, 1992.)

44-6-135a. Maximum sentence credit. Maximum sentence credit shall be the remaining amount of time incarcerated which exceeded the prior penal credit or jail credit on an earlier sentence. For consecutive sentences aggregated to previously imposed consecutive sentences, the latest sentence shall be credited with the remaining amount of time incarcerated for the latest release which exceeded the prior penal credit plus all the

prior penal credit earned on the earlier consecutive sentences. The maximum sentence date shall be adjusted by that amount. (Authorized by K.S.A. 75-5210, as amended by 1990 S.B. 748, § 48; 75-5251, as amended by 1990 S.B. 748, § 60; implementing K.S.A. 22-3427, K.S.A. 1989 Supp. 21-4608, 22-3717; K.S.A. 75-5210, as amended by 1990 S.B. 748, § 48; 75-5251, as amended by 1990 S.B. 748, § 60; effective Nov. 12, 1990.)

44-6-136. Delinquent time lost on post-incarceration supervision (DTLOPIS). (a) Delinquent time lost on postincarceration supervision shall be computed from the date on which the secretary's parole violation warrant, the conditional release violation warrant, or parole officer's arrest and detain order was issued to the date of the service of the warrant as shown on the warrant, or as reflected on the transportation memo issued pursuant to applicable internal management policy and procedure. This information shall be entered by the arresting officer on the back of the signed warrant or shall be reflected on the transportation memo. If the warrant is issued after confinement, no DTLOPIS shall be accrued. DTLOPIS shall be added to the controlling maximum date, and the conditional release date shall be adjusted by that same amount.

(b) Except as specified in subsection (c), delinquent time lost on postincarceration supervision shall accumulate only during the period of time in which the offender is classified as an absconder. Once the initial warrant has been served, delinquent time shall stop accumulating and time after service of the warrant shall not be considered when the sentences are adjusted for delinquent time lost on postincarceration supervision. Credit shall be allowed for any time spent in jail awaiting disposition on revocation hearings.

(c) If the offender is arrested in another state for reasons other than the Kansas parole violation warrant, delinquent time lost on postincarceration supervision shall continue to the date the offender is first available to be returned to Kansas.

(d) Delinquent time may be assessed and applied to the offender's sentence computation by the secretary, in accordance with this regulation, whether the offender's postincarceration supervision status is revoked or continued by the Kansas parole board.

(e) The arresting officer shall endorse, on the back of the condition violation warrant or the arrest and detain order, the date or dates of service,

arrest, and incarceration. For offenders apprehended in another state, this endorsement shall not be required, and the transportation memo shall instead reflect the date when the offender is first made available for return to Kansas. (Authorized by K.S.A. 75-5251; implementing K.S.A. 2005 Supp. 75-5217, K.S.A. 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended, T-86-5, March 22, 1985; amended May 1, 1986; amended May 1, 1988; amended Sept. 6, 2002; amended June 1, 2007.)

44-6-136a. Forfeited good time on postincarceration supervision release. Forfeited good time on postincarceration supervision release shall be computed from the date of release on supervision to the date on which delinquent time on postincarceration supervision release began or to admission to a Kansas department of corrections facility if DTLOPIS does not apply. Good time forfeited on or after August 1, 1989 shall be at the rate in effect on that date. Good time forfeited before August 1, 1989 shall be at the rate in effect at the time of the forfeiture. (Authorized by K.S.A. 75-5210, as amended by L. 2002, Ch. 154, Sec. 1, K.S.A. 75-5251; implementing K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5, K.S.A. 2001 Supp. 75-5217, K.S.A. 75-5251; effective Nov. 12, 1990; amended Sept. 6, 2002.)

44-6-137. Time lost on escape. (a)(1) Time lost on escape shall be calculated by subtracting the date of escape from the date of apprehension on the Kansas charge regardless of whether the inmate is in or out of the state. The result of this computation shall be added to the minimum date, the parole eligibility date, maximum date, conditional release date, or guidelines release date, as applicable.

(2) If the time of apprehension in the other state is not able to be determined, the date of delivery into Kansas custody shall be used. A good faith effort shall be made to determine the time of apprehension.

(b) If time held on the Kansas warrant in the other jurisdiction includes time served for a charge or conviction in the other jurisdiction, the time of delivery into Kansas custody shall be used as the point at which the lost escape time stops. (Authorized by K.S.A. 75-5251; implementing K.S.A. 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Sept. 6, 2002.)

44-6-138. Sentence begins date. (a) Jail credit. Each sentence begins date shall reflect all jail credit.

(b) Reimposed sentence, governed by date of reimposition; adjustment alternatives. The sentence begins date for reimposed sentences, including those reimposed for technical probation violators or persons returned by appellate mandates, shall be the date the court reimposed the sentence unless jail credit or prior penal credit is due. If the court instructs the inmate to surrender to correctional authorities after the sentence imposition date, that surrender date shall become the sentence begins date. This date may be further adjusted by jail credit.

(c) Multiple concurrent sentences governed by court order. The court orders in which multiple, nonconsecutive sentences were imposed shall serve as the reference to ascertain the sentence begins date for use in computing the controlling minimum, maximum, conditional release dates, or guidelines release date, as applicable, subject to the provisions of K.A.R. 44-6-137, K.A.R. 44-6-138, and K.A.R. 44-6-139.

(d) Multiple consecutive sentences. When multiple sentences are imposed on the same date with the stipulation that one is to be consecutive to another, that date shall be used for the sentence begins date unless adjustments are necessary to allow for jail credit. Jail credits allowed shall reflect the largest amount given on any sentence.

(e) Consecutive before 1979 or after 1982. If a sentence for a crime committed before January 1, 1979 or after July 1, 1982 is to be consecutive with any previously imposed sentence, all dates shall be computed from the earliest sentence imposition date, allowing for jail credit and prior penal credit earned on that earliest sentence. If an inmate has been on probation, parole, or conditional release, as a result of a previously imposed sentence, parole eligibility, conditional release, and maximum dates shall also be adjusted to give credit for time served on probation, parole, or conditional release, subject to K.S.A. 21-4608, and amendments thereto.

(f) Consecutive sentences between 1979 and 1982. If a sentence for a crime committed on or after January 1, 1979 and through June 30, 1982 is to be consecutive with any previously imposed sentence, the sentence begins date shall be determined by the imposition date of the latest sentence. The sentence begins date shall then be moved to an earlier date by an amount of time

equal to jail credit and prior penal credit earned on the earlier sentence. Credit shall also be allowed for the time on the minimum term of the earlier sentence, including any time on probation or parole, up to a maximum reduction equal to the minimum term of the earlier sentence.

(g)(1) If a sentence for a crime committed on or after July 1, 1983 is to be consecutive with some previously imposed sentence, the aggregated minimums and maximums shall be computed, and the aggregate sentence shall have the same sentence begins date as the newly imposed sentence. Credit shall be given on the aggregate in an amount equal to the time served on the earlier sentences included in the aggregate. However, for the purpose of computing the sentence begins date, the parole eligibility date, and the conditional release date, this credit shall not exceed the amount of time equal to the period from the sentence begins date, for the previous sentence, to the earliest possible parole eligibility date as if all good time credits had been earned on that previous sentence. An inmate serving a life sentence shall be allowed credit for the total time served, not to exceed 15 years. An inmate serving a mandatory minimum sentence shall be allowed credit for all time served on the sentence before July 1, 1982 plus the remaining minimum time to serve, less all good time credits allowable. When computing the maximum date, the inmate shall receive credit for all time served on the previous sentence.

(2) If the aggregate includes a sentence on which the inmate was serving probation, parole, or conditional release, no credit for time spent on that probation, parole, or conditional release shall be given in computations for the aggregate sentence.

(h) When the aggregate is being computed, the inmate shall be given credit for time spent on probation or parole if both of the following conditions are met:

(1) An inmate is returned to prison as a parole violator with multiple new charges that have identical sentences running concurrent with each other but consecutive to the previous sentence on which parole was being served.

(2) The date of offense on one or more new charges is before July 1, 1983, and another is after July 1, 1983. (Authorized by K.S.A. 75-5251; implementing K.S.A. 21-4608, K.S.A. 2001 Supp. 22-3717, as amended by L. 2002, Ch. 163, Sec. 5; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended, T-85-37, Dec. 19, 1984;

amended May 1, 1985; amended May 1, 1988; amended Sept. 6, 2002.)

44-6-139. Reserved.

44-6-140. Controlling minimum date; for concurrent composite sentences—merge and select longest incarceration; controlling guidelines release date. (a) For new admissions with concurrent sentences, the minimum term of each sentence shall be added to its sentence begins date. The sentence with the minimum term requiring the longest time to be served to parole eligibility shall be the sentence controlling the minimum date. Therefore, parole eligibility for each sentence shall be computed before selecting the controlling minimum sentence.

(b) Concurrent minimums applied only to sentences not parole-eligible yet. The controlling minimum date for inmates readmitted with new concurrent sentences shall be computed only for sentences on which parole eligibility has not yet been achieved.

(c) Technical parole violations. The controlling minimum date of technical parole or conditional release violators shall not change from the original computation on which parole eligibility was originally achieved.

(d) For new admissions with multiple concurrent guidelines sentences, the prison portion of each sentence shall be added to its sentence begins date. The sentence with the term requiring the longest time to be served in prison shall be the sentence controlling the guidelines release date. (Authorized by K.S.A. 75-5251; implementing K.S.A. 75-5251, K.S.A. 21-4608; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Sept. 6, 2002.)

44-6-140a. Controlling minimum date, for consecutive composite sentence add terms; controlling guidelines release date. (a) To obtain the controlling minimum date for consecutive sentences, the minimum terms of those sentences that are consecutive shall be added, and the resulting sum of years shall be added to the sentence begins date. This date shall determine the controlling minimum date for the consecutive sentences but shall not be used to determine parole eligibility. Parole eligibility shall be separately computed according to K.A.R. 44-6-111.

(b) To obtain the controlling guidelines release date for consecutive guidelines sentences, all prison portions of the terms shall be added, and

the resulting sum of months shall be added to the sentence begins date. (Authorized by K.S.A. 75-5251; implementing K.S.A. 75-5251, 21-4608; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Sept. 6, 2002.)

44-6-141. Controlling maximum date; controlling guidelines sentence discharge date. (a) Latest conditional release sentence controls. The sentence with the longest period of incarceration shall be designated as the sentence controlling the maximum date. The maximum term of the sentence controlling the conditional release date shall be added to the sentence begins date to establish the controlling maximum date.

(b) New concurrent—longest incarceration controls. For parole and conditional release violators admitted with new sentences that are to be concurrent to the old sentences, the conditional release date of each new sentence shall be calculated. The conditional release date or dates of the old sentence shall be reviewed to assure that all good time forfeitures have been applied. The sentence that requires the longest period of incarceration to reach conditional release shall be designated as the sentence controlling the maximum term and maximum date. That term shall be added to the sentence begins date to establish the controlling maximum date.

(c) Consecutives. Inmates admitted with consecutive sentences shall have the maximum terms of those sentences added together to determine the controlling maximum sentence. If sentences imposed on different dates are to be served consecutively, the inmate shall receive credit for all time served on the previous sentence when the controlling maximum sentence is computed.

(d) Concurrent—consecutive composites. If an inmate is admitted with a composite sentence that includes both concurrent and consecutive sentences, the conditional release date for the consecutive sentence maximum term, as determined in subsection (c), shall be compared to the conditional release date of any remaining concurrent sentences. The length of the sentence or sentences requiring the longest period of incarceration to reach conditional release shall be designated as the term controlling the maximum date. The length of this term shall be added to the sentence begins date to determine the controlling maximum date.

(e) Violator returned past conditional release from concurrent sentences without new sentence.

If a conditional release violator is returned without new sentences and the conditional release date has been reached on all other sentences, the maximum term of each active sentence shall be added to each of the sentence begins dates. The sentence requiring the longest period of incarceration to reach the maximum date shall be identified as the controlling maximum date, and its length of sentence shall be the controlling maximum term.

(f) Controlling guidelines sentence discharge date. For each offender with multiple guidelines sentences, the controlling guidelines sentence discharge date shall be calculated by using the principles set forth in subsections (a) through (e) above. (Authorized by K.S.A. 75-5251; implementing K.S.A. 21-4608, 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended May 1, 1988; amended Sept. 6, 2002.)

44-6-142. (Authorized by K.S.A. 1993 Supp. 75-5210, 75-5251; implementing K.S.A. 22-3427, K.S.A. 1993 Supp. 21-4608, 22-3717, 75-5210, 75-5251; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended Sept. 30, 1991; amended Jan. 3, 1995; revoked Sept. 6, 2002.)

44-6-143. Computation of consecutive sentences. (a) On and after May 7, 1987, if an individual is sentenced for an offense committed while on probation, parole, conditional release, or postrelease supervision for a felony, and the probation, parole, conditional release, or postrelease supervision is subsequently revoked, the sentences shall be computed as consecutive.

(b) If a previously imposed sentence expires before the imposition of the new sentence, computation shall be made only on the basis of the new sentence. (Authorized by K.S.A. 75-5251; implementing K.S.A. 21-4608, 75-5251; effective Nov. 12, 1990; amended Sept. 6, 2002.)

44-6-144. Minimum sentence expended at parole eligibility—sentence computation. Once the inmate has become eligible for parole, or has been given a parole hearing by the Kansas adult authority, no other parole eligibility shall be established. However, if subsequent sentences are to be served consecutively to the earlier ones, the computation of the new parole eligibility shall utilize the minimum term of the earlier sentence as part of the complete computation. The earlier minimum sentence shall not be considered as eliminated by parole and may be used when re-

quired as an element in the computation of a subsequent or composite sentence. (Authorized by K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210; implementing K.S.A. 22-3427, 75-5251, K.S.A. 1983 Supp. 21-4608, 22-3717, 75-5210; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984.)

44-6-145. Incentive good time credits. Incentive good time credits which were authorized and applied under previous policies and regulations shall continue to be credited to the inmate's sentence and applied to the record. (Authorized by K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210; implementing K.S.A. 22-3427, 75-5251, K.S.A. 1983 Supp. 21-4608, 22-3717, 75-5210; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984.)

44-6-146. (Authorized by and implementing K.S.A. 1993 Supp. 21-4722; effective Sept. 13, 1993; amended Jan. 3, 1995; revoked Sept. 6, 2002.)

Article 7.—PROGRAMS AND ACTIVITIES

44-7-101. Reserved.

44-7-102. (Authorized by and implementing K.S.A. 75-5201, 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5252; effective May 1, 1980; amended May 1, 1984; revoked March 22, 2002.)

44-7-103. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5210, 75-5210(f), 75-5252, 75-5267, 75-5267(b)(2); effective May 1, 1980; revoked March 22, 2002.)

44-7-104. Inmate visitation. (a) Orders shall be promulgated by the warden to govern inmate communication with family, friends, relatives, and others through visits to the facility. Further elaboration of this regulation through the internal management policies and procedures shall be made by the secretary, particularly with respect to establishing a system of identifying a primary visitor for each inmate. The following procedures shall be observed by the facility in the administration of visits.

(1) A suitable area and reasonable space within the facility shall be provided for inmate visitation. All visits shall be held in this area, except when authorization is granted by the warden to visit an inmate elsewhere. For the reasons of security and order in the facility, a visit may be directed by the warden to be allowed under circumstances in which physical contact between the inmate and

visitor is not permitted. All visits shall be subject to visual and sound monitoring of conversations and actions during the visit, except any visit with an attorney or clergy member, or any other visits with persons having a statutory right of privileged communication as specified in subsection (b).

(2) Any inmate may make a list of not more than 20 friends or relatives for the purpose of visiting the inmate in the facility. All proposed visitors shall be informed of the following requirements:

(A) Persons below the age of 18 shall not be allowed to visit, unless they are members of the inmate's immediate family. For the purpose of this subsection, "immediate family" shall mean siblings, stepsiblings, children, stepchildren, grandchildren, stepgrandchildren, and spouse; and

(B) Persons below the age of 18 who are members of the immediate family, except a spouse, shall not be allowed to visit unless they are accompanied by a parent, legal guardian, or an adult who has been given the power of attorney by the parent or legal guardian vesting the person with authority to transport and supervise the minor child on the premises of the institution or facility for the purpose of visiting an inmate. In those instances in which no one has a power of attorney, an adult who is a temporary caregiver of a minor child may authorize visits by the child after providing an affidavit verifying the adult's status and relationship with the child and inmate. Whether or not the visit will be permitted shall be determined by the warden.

(3) Additional visitation guidelines.

(A) Regardless of any visiting list restrictions, an inmate's attorney or a clergy member shall be permitted to visit the inmate at reasonable times, unless a clear abuse of this privilege has occurred or unless such a visit may prove dangerous or harmful to the security and order of the facility or the rehabilitation of any inmate.

(B) Each individual who is requesting a visit with an inmate but who is not designated on the list or has not yet been approved for visitation shall be interviewed and identified by authorized personnel. If the requested visit conforms to all facility and departmental requirements, one visit may be approved pending further investigation and approval of subsequent visits.

(C) Ex-inmates shall be prohibited from visiting any facility or inmate, unless approval is given by the warden. Parolees and probationers

shall first be approved by the warden and have written authorization from their supervisor before visitation. An individual involved in or convicted of any narcotic offense shall not be permitted to visit a facility without the prior approval of the warden.

(D) If an inmate refuses to see a particular visitor, the refusal shall be documented in the records of the facility.

(4) Visitors in the facility shall meet the following requirements:

(A) Wear appropriate attire as described and published by the warden;

(B) not give or receive any written material, article, or merchandise of any sort, except in accordance with the warden's orders or departmental regulations or with the permission of the warden;

(C) be prohibited from placement on more than one inmate's visiting list, unless the visitor is a member of the immediate family, as defined in K.A.R. 44-5-113(a), of more than one inmate confined in a facility or unless the visitor is an approved mentor to an offender, without limit on number, pursuant to a mentoring program approved by the department of corrections;

(D) sign the register of the facility before and after each visitation;

(E) be subject to search, photographing, and fingerprinting;

(F) have visitation restricted or terminated if the facility security needs so warrant; and

(G) not distribute anything inside a correctional facility without written permission from the warden.

(5) Each individual who was an employee of a correctional facility, who regularly worked at a correctional facility as an employee of an entity under contract to provide services to the institution or facility, or who was a volunteer at a correctional facility shall meet the following conditions:

(A) Not be permitted to have visits with an inmate, in other than a professional capacity, for a minimum of two years after the employment or volunteer status is terminated, unless the individual is related by blood or marriage to the inmate. If the individual has a blood or marital relationship with an inmate, the ex-employee, ex-contract employee, or ex-volunteer may nonetheless be subject to the minimum two-year waiting period under the circumstance set forth in paragraph (a)(5)(B). Approval of visits after two years shall

be at the discretion of the warden upon application of the inmate or ex-employee, ex-contract employee, or ex-volunteer. If the warden disapproves the visits, the inmate and ex-employee, ex-contract employee, or ex-volunteer shall be notified by the warden of the specific reasons for the denial; or

(B) if barred from a facility because of undue familiarity with an inmate or for trafficking in contraband, whether or not convicted of any criminal offense in connection with the instance of undue familiarity or trafficking, not be permitted to have visits with any inmate for a minimum of two years after the effective date of the order barring the individual from any facility. The approval of visits after two years shall be given at the discretion of the warden and with the approval of the deputy secretary of facilities management, upon application of an inmate or the ex-employee, ex-contract employee, or ex-volunteer.

(6) An individual who is currently an employee, contract employee, or volunteer and who is related by blood or marriage to an inmate may be permitted to visit the inmate, at the discretion of the warden of the facility where the individual is employed or volunteers and with the approval of the warden of the facility where the inmate is assigned.

(7) Designated personnel shall be present during all visitations and shall supervise visits to the extent appropriate to protect the nature and privacy of the relationship between the inmate and visitor and to maintain security and control.

(8) Any visitor's visiting privileges may be suspended if the visitor violates any visitation policy and procedure or any visitation order while in the facility. An inmate's visiting privileges may likewise be suspended, whether or not the inmate is convicted of violation of any disciplinary regulation in connection with violation of any visitation policy and procedure or any visitation order.

(A) The length of any suspension shall be determined by the warden, subject to the limitations specified in paragraph (a)(8)(B).

(B) The initial length of a suspension imposed for violation of an institutional rule shall not exceed one year. At its termination, the suspension shall be subject to review by the warden and may be extended for successive periods of no more than one year each. Each extension of a suspension shall be reviewed by the warden at its termination.

(9) Any person may be permanently barred

from entering on the grounds of any KDOC facility if the permanent suspension of visiting privileges meets all of the following conditions:

(A) Some credible evidence demonstrates that the person has committed, attempted, conspired regarding, or solicited any of the following types of misconduct:

- (i) Facilitation of escape;
- (ii) assault of an employee, contract employee, or volunteer;
- (iii) communication of a threat proscribed by K.S.A. 21-3419, and amendments thereto, to an employee, contract employee, or volunteer;
- (iv) engaging in sexual intercourse, sodomy, or lewd fondling and touching with an inmate while on the grounds of a correctional facility, whether or not the sexual contact at issue was consensual; or
- (v) violation of K.S.A. 21-3826, and amendments thereto.

(B) The permanent suspension of the person's entry and visitation privileges is recommended by the warden of the affected facility.

(C) The permanent suspension of the person's entry and visitation privileges is approved by the deputy secretary of facilities management.

(10) Each person, including any visitor, shall be subject to search, including a strip search upon a determination of reasonable suspicion, before entering on the grounds of a correctional facility. A person's visiting privilege shall be suspended for a period of one year and restricted to noncontact visiting for an additional six months, if the person refuses to be searched before or after gaining access to facility grounds for the purpose of visiting an inmate.

(b) A place shall be provided for private consultation by attorneys, clergy members, and other persons having a statutory right of privileged communication, with the exception of spouses, to permit confidential conversation. Only those measures necessary to preserve security shall be permitted to interfere with the consultation. Sound monitoring shall not be conducted. Visual monitoring shall be permitted only if necessary to maintain security.

(c) This regulation shall apply only to the regular inmate visitation program. All visits to inmates resulting from a program otherwise implemented by the department of corrections shall be governed by policies and procedures established specifically for that program. (Authorized by and implementing K.S.A. 2003 Supp. 75-5210, K.S.A.

75-5251, 75-5252; effective May 1, 1980; amended May 1, 1987; amended May 1, 1988; amended Nov. 12, 1990; amended Jan. 11, 1993; amended July 11, 1994; amended, T-44-3-19-04, March 19, 2004; amended July 2, 2004.)

44-7-105. (Authorized by and implementing K.S.A. 75-5210, 75-5251, 75-5267; effective May 1, 1980; amended May 1, 1987; revoked March 22, 2002.)

44-7-106. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5211; effective May 1, 1980; amended May 1, 1984; revoked March 22, 2002.)

44-7-107. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended May 1, 1984; amended May 1, 1986; revoked March 22, 2002.)

44-7-108. Private non-prison employment. (a) The principal administrator of any facility designated by the secretary for such a program shall establish a program whereby inmates having a minimum or medium security classification may work at paid employment for a private industry or other business approved by the secretary. The program shall be referred to as private, non-prison employment. The program shall be distinct from any program of employment of inmates by a private business which is leasing space on the premises of the correctional facility. No inmate shall be engaged in the private, non-prison employment program unless minimum wage is paid. Minimum wage shall be state minimum wage unless federal contracts are involved. If federal contracts are involved, minimum wage shall be the higher of the federal or state minimum wage.

(b) All employees of a private, non-prison program business shall be part of and paid by that business. Corrections officers necessary to provide security for inmate workers shall be provided by the correctional facility. (Authorized by and implementing K.S.A. 75-5251, 75-5210, 75-5211; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended May 1, 1987.)

44-7-109. (Authorized by K.S.A. 75-5250, 75-5251, K.S.A. 1979 Supp. 75-5210, 75-5210(a), (b) and (f), 75-5211; effective May 1, 1980; revoked March 22, 2002.)

44-7-110 and 44-7-111. (Authorized by K.S.A. 75-5251, K.S.A. 1980 Supp. 75-5210, 75-

5210(a), (b) and (f), 75-5211; effective May 1, 1980; revoked May 1, 1981.)

44-7-112. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5210, 75-5210(a), (b) and (f), 75-5211, 75-5256; effective May 1, 1980; revoked March 22, 2002.)

44-7-113. Religious activity. (a) Clergy members from recognized religious faiths may hold religious services in the facilities, at their own expense and at the times authorized by and in accordance with the warden's general orders.

(b) A group of two or more inmates of a common religious faith who are without the benefit of a clergy member may request that the chaplain recommend to the warden for consideration for approval a proposal allowing these inmates to meet as a group and hold religious services among themselves.

(c) Upon the request of any inmate, a bible or any other related religious text material that has been previously donated to the secretary shall be made available by the warden of the facility to the inmate. The term "bible" shall mean the main religious text of the inmate's religion. Other related religious text materials may be limited in numbers and amounts according to established correctional practice and management, including the amount of space per inmate in each cell. A religious reading section shall be established by the warden in the inmate library. A donated main text of religious doctrine for each religion may be made available by the warden in the inmate library.

(d) All religious services and meetings shall be conducted in accordance with the orders of the warden. (Authorized by K.S.A. 2003 Supp. 75-5210, K.S.A. 75-5251; implementing K.S.A. 75-5223 and K.S.A. 75-5251; effective May 1, 1981; amended April 20, 1992; amended, T-44-3-19-04, March 19, 2004; amended July 2, 2004.)

44-7-114. (Authorized by and implementing K.S.A. 75-5210(c); effective June 4, 1990; revoked March 22, 2002.)

44-7-115. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective April 20, 1992; revoked March 22, 2002.)

44-7-116. (Authorized by and implementing K.S.A. 1992 Supp. 75-5211, as amended by 1993 H.B. 2129, §1; effective Sept. 13, 1993; revoked March 22, 2002.)

Article 8.—WORK RELEASE

44-8-101. Definitions. (a) "Community facilities and services administrator" means the person employed by the secretary of corrections with the responsibility for the statewide administration of the work release program and jail inspection.

(b) "Employer" means those persons, businesses, private interests, or corporations acting as agents of the secretary of corrections by providing paid employment to work release participants.

(c) "Facility" means the physical structure or location which houses work release participants and provides the operational base for a localized work release program.

(d) "Participant" means inmates in the custody of the secretary of corrections who are classified as being in work release status and placed in a work release program.

(e) "Supervisor" means the person in the employ of, or under contract with the secretary of corrections who is directly responsible for the operation of a facility which provides for, or includes a work release program.

(f) "Staff" means those persons either directly employed by the secretary of corrections, or those persons employed by an agent, who has a contract with the secretary of corrections, who are authorized to directly supervise and exercise legal authority over work release participants placed under their control.

(g) "Work release program" or "program" means the rehabilitation program concept and structure established by the secretary of corrections. The program permits participants to leave actual confinement to work in the community under the general supervision of staff and in conformity to the specifications contained in a written contract, remaining in extended limits of confinement as designated by secretary of corrections or designee.

(h) "Parent institution" means the last major institution to which an inmate was assigned prior to transfer to the Kansas reception and diagnostic center, Kansas correctional-vocational training center, honor camp or work release facility. (Authorized by K.S.A. 75-5251, K.S.A. 1980 Supp. 75-5210, 75-5210(e), (f) and (g), 75-5267, 75-5268; effective May 1, 1980; amended May 1, 1981.)

44-8-102. Work release participation. (a) Regulations on work release may be explained and interpreted in secretary of corrections' inter-

nal management policies and procedures (IMPP) and the inmate shall refer to them before reliance upon any specific provision of these work release regulations.

(b) Each participant in the work release program shall:

(1) Actively seek and maintain full time gainful employment;

(2) participate in any counseling, education, or other self-help programs and activities recommended in the inmate's program plan by the secretary of corrections, the Kansas adult authority, or the facility staff;

(3) comply with all program regulations and general orders of the facility to which the inmate is assigned; and

(4) remain within the limits of confinement.

(c) A per diem rate established by the secretary of corrections for each day in the program shall be charged to the participants for food and lodging. This per diem shall be returned to the funding source, for participants of state operated facilities, or shall be paid to the local governmental correctional centers, private facilities, or halfway houses in which the participant is housed. Transportation costs shall be charged against a participant, at the rate established by the secretary of administration pursuant to K.S.A. 75-3203, after the participant has begun full time employment. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5267; effective May 1, 1980; amended May 1, 1984.)

44-8-103. Extended limits of confinement. (a) Participant's place of confinement shall be designated to be that facility to which he or she is assigned for work release participation. He or she shall remain in that facility at all times except when going to, returning from, or engaging in approved: (1) Interviews with prospective employers.

(2) Paid employment or employment related training activities.

(3) Point-to-point passes or furloughs.

(b) Limits of confinement may be extended by the supervisor or his or her staff. Documents and agreements shall be signed by the participant acknowledging the specific period of time, the area, and the time for which the extension is made.

(c) The work release administrator shall formulate, publish, post and make available as a part of general orders the information which will enable the participants to determine: (1) Their eli-

gibility for point-to-point passes and furloughs. The work release administrator may delegate the writing of general orders to the work release supervisors subject to approval by the work release administrator.

(2) The identity of staff members authorized to grant passes or furloughs.

(3) The procedure used to insure that furloughs or passes are used for the purposes for which they were granted. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5210, 75-5210(b), (d), (e), (f) and (g), 75-5267; effective May 1, 1980.)

44-8-104. Work release plan agreements. (a) A written agreement shall be executed between the secretary of corrections or designee and the participant which (1) Prescribes the standards for the participant conduct.

(2) Describes the extended limits of confinement.

(3) Describes who will provide transportation and the mode to be utilized.

(4) Provides for the disbursement of the participant's earnings.

(b) A written agreement shall be executed between the secretary of corrections or designee and the employer which will provide (1) Information to the employer about the work release program and regulations.

(2) The address and telephone number of the work release facility.

(3) The name, address and telephone number of the employer.

(4) The job or position title in which the participant is employed.

(5) The rate of compensation and pay period interval.

(6) The participant's regular work schedule.

(c) The work release plan agreements shall be maintained as permanent records in the department of corrections' official file on the participant. (Authorized by K.S.A. 75-5251, 75-5268, K.S.A. 1979 Supp. 75-5210, 75-5210(f) and (g), 75-5267; effective May 1, 1980.)

44-8-105. Removal from work release status. (a) The work release administrator may terminate or suspend an inmate's participation in the work release program if the work release center supervisor finds any of the following: (1) The participant is released on parole.

(2) The participant exhibits a lack of interest or motivation in securing employment.

(3) The participant refuses to accept offers of gainful employment.

(4) The participant is terminated from employment due to his or her inability to adjust or perform as required.

(5) The participant is the cause of conflict with co-workers or the employer.

(6) The participant is subject to disciplinary action as a result of a serious rule violation or repeated minor conduct rule violations.

(7) The participant becomes involved in criminal activity or is suspected of criminal activity which is reported to the district or county attorney for prosecution.

(8) The administrator has cause to believe the participant is not able to conform to the program structure or facility rules based upon documented situations provided by the supervisor or staff.

(9) The participant's activities may bring discredit to the overall work release program.

(10) The participant requests, in writing, his or her voluntary removal from the program.

(11) The participant violates the extended limits of confinement, or leaves the facility of placement without proper authorization.

(b) Medical treatment. Participants may be transferred to a correctional institution if extended hospitalization or treatment is recommended, or if he or she is financially unable to meet the cost of short term hospitalization. The participant may be removed from the program, or returned after treatment. (Authorized by K.S.A. 75-5251, K.S.A. 1980 Supp. 75-5210, 75-5210(b), (f), (g) and (h), 75-5267, 75-5268; effective May 1, 1980; amended May 1, 1981.)

44-8-106. Authorized visits and use of telephone. (a) Each facility supervisor shall provide an area separated from the dormitory or living units designated for visits between participants and approved visitors. The supervisor shall formulate, and upon approval by the work release administrator, publish as a part of general orders, post and make available to participants and visitors, rules for visiting within the facility.

(b) Each facility supervisor shall make at least one (1) unmonitored coin operated telephone available in a designated area for participant use. The supervisor shall formulate and, upon approval by the administrator, publish as part of general orders, post and make available to participants, rules for the use of telephones within the facility. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp.

75-5210, 75-5210(d), (e), (f) and (g), 75-5256, 75-5267; effective May 1, 1980.)

44-8-107. Clothing. Participants shall not be required to wear issued clothing. Clothing may be issued to the inmate if needed and if available. Participants shall be permitted to dress in appropriate street attire.

(a) Participants may use clothing transferred on the inventory maintained at the parent institution.

(b) Subject to limitations established by the facility supervisor, the participant may purchase, or have delivered from his or her family, clothing for personal use. All clothing purchased or delivered shall be accounted for by facility staff and the participant in accordance with facility rules.

(c) The facility supervisor may formulate, and upon approval of the administrator, publish and make available to participants a rule limiting the amount of clothing permitted in the facility as determined by:

(1) Available storage space.

(2) Facility compliance with fire and safety requirements.

(3) Internal management consideration. (Authorized by K.S.A. 75-5251, 75-5268, K.S.A. 1979 Supp. 75-5210, 75-5210(f) and (g), 75-5267; effective May 1, 1980.)

44-8-108. Religious services. Participants who wish to participate in religious services or activities may be permitted to attend services of recognized religious denominations available within the community in which the facility is located. The facility supervisor shall permit participants to leave the facility for religious practices as an extension of confinement unless chaplain services are available on the premises. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5210, 75-5210(a), (d), (f) and (g), 75-5267; effective May 1, 1980.)

44-8-109. Medical care and services. (a) Minor and emergency medical services shall be provided to participants of the work release program.

(1) Each facility shall maintain an adequate first aid kit for minor treatment.

(2) Key staff members shall be trained in basic first aid and life saving techniques within the first year of employment.

(3) The supervisor shall formulate, and upon approval by the administrator, publish and make

part of general orders a procedure to be followed by staff members regarding medical emergencies in the facility.

(4) Participants requiring hospitalization of short duration may remain in the program if they are covered by adequate health care insurance or assume responsibility for expenses incurred.

(b) Participants may be required, or may be allowed to participate in counseling or treatment services provided by agencies in the community when the services are not available in the facility, or as part of the program.

(1) Participants shall be responsible for any charges for such services.

(2) The staff shall make initial arrangements for participants to receive medical treatment from public service agencies. (A) To insure that the public service agency has adequate expertise in its field.

(B) To insure that the participant receives adequate services at the lowest cost.

(3) Participants shall acknowledge his or her responsibility to pay for the services and shall authorize the staff to disburse from his or her earnings the amount needed to pay for the services. (Authorized by K.S.A. 75-5251, 75-5268, K.S.A. 1979 Supp. 75-5210, 75-5210(c), (f) and (g), 75-5256, 75-5267; effective May 1, 1980.)

44-8-110. (Authorized by K.S.A. 75-5251, 75-5254, 75-5257, K.S.A. 1980 Supp. 75-5210, 75-5210(f), (g) and (h), 75-5256, 75-5267, 75-5268; effective May 1, 1980; amended May 1, 1981; revoked March 22, 2002.)

44-8-111. (Authorized by K.S.A. 75-5251, 75-5268, K.S.A. 1979 Supp. 75-5210, 75-5210(b), (f), (g) and (h), 75-5267; effective May 1, 1980; revoked March 22, 2002.)

44-8-112. (Authorized by K.S.A. 75-5251, 75-5268, K.S.A. 1979 Supp. 75-5210, 75-5210(b), (f), (g) and (h), 75-5267; effective May 1, 1980; revoked March 22, 2002.)

44-8-113. (Authorized by K.S.A. 75-5251, 75-5268, K.S.A. 1979 Supp. 75-5210, 75-5210(b), (c), (f), (g) and (h), 75-5252, 75-5267; effective May 1, 1980; revoked March 22, 2002.)

44-8-114. (Authorized by and implementing K.S.A. 75-5210, 75-5251, 75-5267; effective May 1, 1980; amended May 1, 1984; amended May 1, 1987; revoked March 22, 2002.)

44-8-115. Private non-prison based em-

ployment as work release. Private non-prison based employment programs which operate within a community setting utilizing inmates with not more than a minimum security classification shall be work release programs. Criteria for eligibility set forth in K.A.R. 44-8-114 shall be applicable except that inmates meeting all other criteria for selection may be eligible for participation up to 36 months prior to their parole eligibility date. (Authorized by and implementing K.S.A. 75-5210, 75-5251, 75-5267; effective June 4, 1990.)

44-8-116. Private prison based employment as work release. Private enterprises which operate on the grounds of a correctional institution and employ inmates shall be work release programs. Criteria for eligibility set forth in K.A.R. 44-8-114 shall be applicable except that inmates with a custody level higher than minimum and meeting all other criteria may be eligible for participation without regard to their parole eligibility date. (Authorized by and implementing K.S.A. 75-5210, 75-5251, 75-5267, 75-5288; effective June 4, 1990.)

Article 9.—PAROLE

44-9-101. Definitions. The parole officer means the person responsible for the supervision of those individuals released on parole by the Kansas parole board. (Authorized by K.S.A. 75-5251; implementing K.S.A. 75-5214, K.S.A. 1985 Supp. 22-3717, as amended by L. 1986, ch. 136; effective May 1, 1980; amended May 1, 1985; amended May 1, 1987.)

44-9-102. (Authorized by K.S.A. 75-5251, K.S.A. 1980 Supp. 21-4603, 21-4604, 75-5210, 75-5210(c); effective May 1, 1980; revoked May 1, 1981.)

44-9-103. (Authorized by and implementing K.S.A. 75-5216, 75-5251, K.S.A. 1988 Supp. 75-5217, effective May 1, 1980; amended May 1, 1984; amended May 1, 1987; amended March 12, 1990; revoked July 11, 1994.)

44-9-104. (Authorized by and implementing K.S.A. 22-3717, 75-5216, 75-5251; and K.S.A. 1988 Supp. 75-5217; effective May 1, 1980; amended May 1, 1984; amended May 1, 1986; amended March 12, 1990; revoked July 11, 1994.)

44-9-105. Preliminary hearing for alleged violators. Alleged parole violators, conditional release violators, and post-release supervi-

sion violators shall be afforded the opportunity to request a hearing to determine if there has been any violation of any conditions of supervision. The requirements for the hearing are as follows: (a) Notice of the charges. The releasee shall be informed of the charges in writing with sufficient particularity and sufficient time in advance of the hearing to prepare a defense. The hearing shall be held within 3 to 14 days after service of the notice of charges, subject to authorized continuances.

(b) The purpose of the hearing is to determine whether probable cause exists to believe that a condition of supervision has been violated. The hearing shall be held before a party not involved in the case. Pending the hearing, the releasee shall remain incarcerated.

(c) The hearing shall be held close to the site of the arrest or commission of the alleged violation. The hearing may be held at a correctional facility contiguous to the county where the releasee was arrested or the violation is alleged to have been committed. For this purpose Johnson county, Kansas shall be considered to be a county contiguous to Lansing correctional facility.

(d) The releasee shall be entitled to call witnesses to appear on the releasee's behalf at the hearing.

(1) The hearing officer may restrict the witnesses to those who can testify to the facts relevant to the occurrence of the alleged violation. Character reference witnesses may be excluded.

(2) Witnesses may testify by telephone, provided the releasee is able to hear the testimony of the witness contemporaneously with the hearing officer.

(e) The releasee shall have the right to be made aware of adverse evidence. The releasee shall be allowed to cross examine adverse witnesses unless the hearing officer decides the witness may be physically harmed if his or her identity were revealed.

(f) The releasee shall be given a written statement of the basis for the decision.

(g) If the releasee had not previously been returned to a correctional facility, upon finding of probable cause, the releasee shall be returned to a correctional facility designated by the secretary of corrections pending a final revocation hearing of the Kansas parole board. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1993 Supp. 22-3717, K.S.A. 1993 Supp. 75-5210, K.S.A. 1993

Supp. 75-5217; effective May 1, 1980; amended July 11, 1994.)

44-9-106. Expungement of record process explained to parolee. All persons who have been convicted and placed on probation or parole, and who are otherwise eligible for expungement of conviction record, shall be informed of the proper procedure to be followed in obtaining consideration from the court for the grant of an order expunging the record. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 21-4619, 22-3717, 75-5210, 75-5210(b) and (f), 75-5215; effective May 1, 1980.)

Article 10.—RESERVED

Article 11.—COMMUNITY CORRECTIONS

44-11-101 and 44-11-102. (Authorized by K.S.A. 1980 Supp. 75-5294; effective May 1, 1980; revoked May 1, 1981.)

44-11-103. (Authorized by K.S.A. 1980 Supp. 75-5294, 75-5299; effective May 1, 1980; revoked May 1, 1981.)

44-11-104. (Authorized by K.S.A. 1980 Supp. 75-5292(b), 75-5294, 75-5296(c), 75-52,101; effective May 1, 1980; revoked May 1, 1981.)

44-11-105. (Authorized by K.S.A. 1980 Supp. 75-5293, 75-5294, 75-5296; effective May 1, 1980; revoked May 1, 1981.)

44-11-106 and 44-11-107. (Authorized by K.S.A. 1980 Supp. 75-5294; effective May 1, 1980; revoked May 1, 1981.)

44-11-108. (Authorized by K.S.A. 1980 Supp. 75-5294, 75-5296; effective May 1, 1980; revoked May 1, 1981.)

44-11-109. (Authorized by K.S.A. 1980 Supp. 75-5294, 75-52,104; effective May 1, 1980; revoked May 1, 1981.)

44-11-110. (Authorized by K.S.A. 1980 Supp. 75-5294(a); effective May 1, 1980; revoked May 1, 1981.)

44-11-111. Definitions. (a) "Active cases" means those cases that have been supervised in a manner that is consistent with contact standards adopted by the secretary.

(b) "Community corrections agency" means the structure that exists or is proposed to exist within

a planning unit and that delivers the community corrections services outlined in a comprehensive plan.

(c) "Community corrections grant funds" means funds made available to a planning governing authority by the department of corrections, pursuant to the Kansas community corrections act, K.S.A. 75-5290 et seq. and amendments thereto.

(d) "Comprehensive plan" means the working document developed by a local corrections advisory board at a frequency prescribed by the secretary, setting forth the objectives and services planned for a local community corrections agency.

(e) "Corrections advisory board" means a board appointed by a governing authority to develop and oversee a comprehensive plan.

(f) "Governing authority" means any county or group of cooperating counties that has established a local corrections advisory board for the purpose of establishing a community corrections agency.

(g) "Grant years" means the years covered in an agency's comprehensive plan. The first of these grant years shall be deemed to begin at the start of a state fiscal year.

(h) "Line items" means specific components comprising a major budget category.

(i) "Offender fees" means charges for drug and alcohol testing, electronic monitoring services, supervision services, housing in a residential center, and other services and assistance provided by community corrections agencies.

(j) "Out-year report" means the report that details amendments to the comprehensive plan. The report is submitted each year in which a comprehensive plan is not required to be submitted.

(k) "Program" means an adult intensive supervision program (AISP) or adult residential program (ARES) operated by a community corrections agency.

(l) "Reimbursements" means income generated by community corrections agencies and fees assessed and collected by community corrections agencies in prior fiscal years or in the current fiscal year, for expenses incurred.

(m) "Secretary" means the secretary of corrections.

(n) "Service" means a community corrections activity directed by a public or private agency to deliver interventions to offenders and assistance to victims, offenders, or the community.

(o) "Standards" means the minimum require-

ments of the secretary for the operation and management of community corrections agencies.

(p) "Unexpended funds" means state funds remaining in a program's accounts at the close of a fiscal year that are not obligated for expenses incurred during that fiscal year or that have not been approved for expenditure by the secretary beyond the fiscal year. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 2005 Supp. 75-5291, K.S.A. 2005 Supp. 75-5292, K.S.A. 75-5295, K.S.A. 75-5296, K.S.A. 2005 Supp. 75-5297, K.S.A. 75-52,102, K.S.A. 75-52,103, K.S.A. 2005 Supp. 75-52,105, K.S.A. 2005 Supp. 75-52,110; effective May 1, 1981; amended May 1, 1984; amended Feb. 6, 1989; amended March 5, 1990; amended July 23, 1990; amended March 29, 2002; amended June 1, 2007.)

44-11-112. (Authorized by 75-5294; implementing K.S.A. 75-5293, as amended by L. 1989, ch. 92; effective May 1, 1981; amended March 5, 1990; revoked March 29, 2002.)

44-11-113. Comprehensive plan; comprehensive plan review. (a) The comprehensive plan shall be developed by the community corrections agency in collaboration with the corrections advisory board. The plan shall minimally include the following:

- (1) An agency profile;
- (2) signatory approval of the community corrections agency's director, the chairperson of the corrections advisory board, and the governing authority;
- (3) a list of the members of the advisory board, with descriptors that demonstrate compliance with K.S.A. 75-5297 and amendments thereto;
- (4) the name, mailing address, and phone number of the chairperson of the governing authority and, if any, the chairperson's fax number and e-mail address;
- (5) an agency summary of programmatic changes and significant events;
- (6) an organization chart;
- (7) personnel data;
- (8) new position data;
- (9) a description of collaboration that occurred or will occur to identify and address the community's correctional needs;
- (10) a program description, including goals and objectives to be achieved, data elements to be collected, and services to be provided;
- (11) a new service description;
- (12) an explanation of the relationship among

the governing authority, corrections advisory board, community corrections director, and the program or programs described in the comprehensive plan;

(13) a process for the advisory board to monitor the progress of the program or programs described in the plan;

(14) a timeline for implementation of the plan; and

(15) any other information requested by the secretary in the comprehensive plan form.

(b) A detailed budget, addressing awarded community corrections grant funds and reimbursements maintained and anticipated to be collected or expended or both, and a narrative describing each line item shall also be submitted annually as prescribed by the secretary.

(c) Agency outcomes shall be submitted on or before May 1 of each year in a format prescribed by the secretary.

(d) An out-year report shall be submitted on or before May 1 of each year in which a comprehensive plan is not required, in a format prescribed by the secretary.

(e) Each county desiring to establish a community corrections agency shall issue a resolution indicating this intent and include a copy of the resolution in its initial comprehensive plan. A county desiring to enter into an interlocal agreement with another county for the provision of community corrections services, as prescribed in K.S.A. 12-2901 through K.S.A. 12-2907 and amendments thereto, shall include an interlocal agreement, approved by the attorney general, in its initial comprehensive plan.

(f) A program review committee shall be appointed by the secretary to review each comprehensive plan. The committee shall make a recommendation to the secretary. The comprehensive plan shall be accepted, rejected, or accepted subject to specified modifications by the secretary. (Authorized by K.S.A. 75-5294, K.S.A. 75-5296, K.S.A. 75-52,102; implementing K.S.A. 2005 Supp. 75-5292, K.S.A. 75-5296, K.S.A. 75-5299, K.S.A. 75-52,102; effective May 1, 1981; amended Feb. 6, 1989; amended May 15, 1989; amended March 5, 1990; amended March 29, 2002; amended June 1, 2007.)

44-11-114. (Authorized by and implementing K.S.A. 75-5294, K.S.A. 75-5292, as amended by L. 1989, ch. 92, K.S.A. 75-52,102, as amended by L. 1989, ch. 92; effective May 1,

1981; amended Feb. 6, 1989; amended March 5, 1990; revoked March 29, 2002.)

44-11-115. (Authorized by K.S.A. 1980 Supp. 75-5294; implementing K.S.A. 1980 Supp. 75-5292(b), 75-52,102(a); effective May 1, 1981; revoked March 29, 2002.)

44-11-116. (Authorized by and implementing K.S.A. 75-5292, 75-5294, 75-52,104; effective May 1, 1981; amended Feb. 6, 1989; revoked March 5, 1990.)

44-11-117 and 44-11-118. (Authorized by K.S.A. 1980 Supp. 75-5294; implementing K.S.A. 1980 Supp. 75-5296(b); effective May 1, 1981; revoked May 1, 1984.)

44-11-119. Local programs. (a) A comprehensive plan may provide for community corrections programs to be administered by public or private agencies. A governing authority may enter into a contractual or other written agreement with a private agency to operate programs identified in the comprehensive plan or to provide specialized services to program participants.

(b) An annual audit of all programs identified in the comprehensive plan shall be conducted by the secretary. The audit may consist of a fiscal audit, standard compliance audit, performance audit, data accuracy audit, or any other type of review prescribed by the secretary.

(c) Each community corrections agency shall submit notice of the date, time, and location of each advisory board meeting to the deputy secretary of community and field services at least one working day before the scheduled meeting. Each community corrections agency shall submit a copy of the minutes of each advisory board meeting to the secretary within 30 working days after each meeting. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 75-5295, 75-5296, 75-52,103; effective May 1, 1981; amended Feb. 6, 1989; amended March 29, 2002.)

44-11-120. Cash match for other grant funds. A governing authority, in its comprehensive plan submitted to the secretary, may propose to use a portion of community corrections grant funds as a cash match for a grant from another source and may use these funds in this manner only if proposed in the plan and approved by the secretary. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 75-5295, 75-52,103; effective May 1, 1981; amended March 29, 2002.)

44-11-121. Fiscal management; required reporting. (a) Each governing authority shall designate one person to be responsible for all fiscal matters related to the community corrections grant funds received. This person shall comply with generally accepted accounting principles governing the management of county funds and shall provide information to the corrections advisory board and the secretary on a monthly and quarterly basis as prescribed by the secretary.

(b) A monthly financial status report shall be submitted to the secretary within 20 calendar days after the end of each month as prescribed by the secretary. All reimbursements collected or maintained by the agency or governing authority for the agency shall be reported in the monthly financial status report.

(1) The monthly report shall note any purchases in the amount of \$5,000 or more that occurred in the prior month and shall include documentation of approval of the same by the corrections advisory board and governing authority. Like items whose aggregate purchase price equals or exceeds \$5,000 shall also be subject to disclosure.

(2) The monthly report shall note any bulk payments made for expenses that are incurred in or will be incurred in multiple months.

(c) Each county receiving grant funds shall submit to the secretary a quarterly financial report within 20 calendar days after the end of each calendar quarter as prescribed by the secretary. The governing authority shall certify in the quarterly report that all accounts containing community corrections grant funds have been balanced and reconciled with invoices and receipts.

(d) Each county shall be required to submit a final financial status report to the secretary within 60 calendar days after the end of each state fiscal year. The total amount of unexpended funds for each county receiving grant funds shall be determined by the secretary.

(e) Each county receiving grant funds shall submit to the secretary all portions of its annual financial audit pertaining to community corrections grant funds, including the report's cover letter and any exceptions applicable to community corrections grant funds, in the manner provided by K.S.A. 75-1124, and amendments thereto, within 60 calendar days after receipt by the county.

(f) All reimbursements maintained from current and prior fiscal years, collected, and ex-

pended by a community corrections agency shall be included on the monthly financial status report as prescribed by the secretary.

(g) Each community corrections agency shall annually submit to the secretary a plan, approved by the corrections advisory board and governing authority for the use of reimbursements, within 60 calendar days after the end of each state fiscal year. Each change in the plan shall require the prior approval of the corrections advisory board and governing authority, and the community corrections agency shall send a copy of the approved change to the secretary at least 10 working days before implementation of the approved change.

(h) (1) If a community corrections agency complies with the requirements in subsections (f) and (g) of this regulation, the agency shall retain its reimbursements and use them in accordance with the approved plan.

(2) If a community corrections agency chooses not to comply with the requirements in subsections (f) and (g) of this regulation, all current reimbursements and those carried over from previous years may be deducted by the secretary from the agency's current or future allocations. These deductions shall be placed by the secretary in a special fund designated for community corrections.

(3) Agencies, except those that chose not to comply with the requirements in subsections (f) and (g) during the state fiscal year in question, may apply for these special funds to maintain or enhance current funded services or add new services, or support or enhance agency operations, or any combination of these uses. (Authorized by K.S.A. 75-5294, 75-5296, 75-52,105; implementing K.S.A. 2001 Supp. 75-5291, K.S.A. 75-5296, 75-52,103, 75-52,105, 75-52,111; effective May 1, 1981; amended Feb. 6, 1989; amended May 15, 1989; amended March 5, 1990; amended March 29, 2002.)

44-11-122. (Authorized by and implementing K.S.A. 75-5294, 75-5296, as amended by L. 1989, ch. 92; effective May 1, 1981; amended Feb. 6, 1989; amended March 5, 1990; revoked March 29, 2002.)

44-11-123. Changes in the comprehensive plan, budget, agency outcomes, and out-year report. (a) If a community corrections agency wishes to change or deviate from the comprehensive plan, budget, agency outcomes, or out-year report during any fiscal year, the agency may

do so if signatory approval of the corrections advisory board and the governing authority is first obtained. Documentation of signatory approval shall be submitted to the secretary before making the change or deviation.

(b) Each transfer of funds from the budget of one program to the budget of another program shall require the prior approval of the secretary. The signatory approval of the corrections advisory board and governing authority shall be submitted to the secretary along with a description of and justification for the proposed transfer. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 2005 Supp. 75-5292, K.S.A. 75-5296, K.S.A. 75-52,102; effective May 1, 1981; amended Feb. 6, 1989; amended May 15, 1989; amended March 5, 1990; amended July 23, 1990; amended March 29, 2002; amended June 1, 2007.)

44-11-124. (Authorized by K.S.A. 1980 Supp. 75-5294; implementing K.S.A. 1980 Supp. 75-52,103; effective May 1, 1981; revoked March 29, 2002.)

44-11-125. (Authorized by and implementing K.S.A. 75-5294, 75-52,104, 75-52,105; effective May 1, 1981; amended, T-84-6, March 29, 1983; amended May 1, 1984; amended May 1, 1986; revoked Feb. 6, 1989.)

44-11-126. (Authorized by K.S.A. 1980 Supp. 75-5294; implementing K.S.A. 1980 Supp. 75-52,106; effective May 1, 1981; revoked March 5, 1990.)

44-11-127. Prohibition of use of state community corrections funds; maintenance and documentation of funds. (a) A governing authority shall not use community corrections grant funds to replace available public or private funding of existing programs.

(b) A governing authority may request community corrections grant funds to continue an existing program that would otherwise cease due to the exhaustion of public or private funds that had been specifically allocated to the program as start-up monies with a predetermined termination date.

(c) A governing authority may request community corrections funds to supplement existing public or private funding of an existing program if these community corrections grant funds would enhance services.

(d) State community corrections grants funds shall be maintained in a separate fund.

(e) State community grant funds shall not be expended for services, supplies, equipment, or the payment of rent beyond the grant year in which the services, supplies, equipment, or payments are received or due. Only expenditures incurred within the grant year shall be charged to the community corrections grant.

(f) All community corrections expenditures shall be supported by a receipt or invoice.

(g) State community corrections funds shall not be used to fund depreciation.

(h) State community corrections grant funds shall be expended and obligated for operation and management of programs for adult offenders only. Nothing in this regulation shall prohibit the use of state community corrections grant funds to purchase equipment, supplies, and services shared by programs for adult and juvenile offenders if the use by the adult program is proportionate to the monetary contribution of that program.

(i) State community corrections grant funds shall not be expended and obligated for association memberships for individuals. State community corrections grant funds may be expended and obligated by community corrections agencies for staff uniforms or clothing and association memberships for the agency if specifically authorized by the agency's policies and procedures. Nothing in this regulation shall prohibit housing, transportation, clothing, and billing assistance to indigent offenders, or the acquisition of necessary safety equipment for staff, including bulletproof vests and latex gloves. (Authorized by K.S.A. 75-5294; implementing K.S.A. 2000 Supp. 75-5291, K.S.A. 75-5296, 75-52,103, 75-52,105; effective, E-82-25, Dec. 16, 1981; effective May 1, 1982; amended March 29, 2002.)

44-11-128. (Authorized by and implementing K.S.A. 75-5296 and 75-52,105; effective May 1, 1981; amended Feb. 6, 1989; revoked March 5, 1990.)

44-11-129. Unexpended funds. Unexpended funds may be transferred by the secretary to another county or counties. Any county may make application to the secretary for the unexpended funds. The county shall provide the secretary with a statement of why the funds are necessary, documentation of need, a budget narrative describing the proposed services, and, if the funds are for a new program, a listing of measurable goals and objectives. The county shall be notified by the secretary of approval or disapproval of the

application within 60 calendar days after receipt of the request. (Authorized by K.S.A. 75-5294; implementing K.S.A. 75-52,103; effective Feb. 6, 1989; amended March 5, 1990; amended March 29, 2002.)

44-11-130. Use of grant funds for real estate acquisition and capital construction; use of grant funds for the purchase of property and supplies. (a) Real estate acquisition and capital construction.

(1) Grant funds may be used for the purchase of real estate, land, or buildings, or for capital construction with the approval of the secretary of corrections. This approval may be granted only upon receipt and concurrence by the secretary of an amortization schedule covering the costs of purchase or construction, or both. The amortization schedule shall be such that the annual payments shall not exceed the cost of rent or lease payments for comparable space in the same market. Notification of completion of the acquisition or capital construction shall be filed by the program director in writing with the secretary. The prior approval of the secretary shall be required to cease use of the property for community corrections purposes. If the property ceases to be used for community corrections purposes during the period of amortization, the secretary shall have the option of either of the following:

(A) Requiring the county to refund the total amount of community corrections funds expended for purchase or construction, or both, to date including previous years; or

(B) assuming any remaining indebtedness and acquiring title to the property.

(2) Once the amortization period is completed, if the secretary has not exercised either option described above, title shall rest with the county, and any claim to the property shall be relinquished by the secretary. At no time shall the department of corrections or the state of Kansas be responsible for indebtedness for these transactions except as provided under paragraph (a)(1)(B).

(3) The governing authority shall not charge rent to a community corrections agency for lease of real estate acquired with state community corrections funds, unless only a portion of the real estate was purchased with state community corrections funds. If only a portion of the real estate was acquired using community corrections funds, any rent charged to a community corrections agency shall be commensurate with space occu-

pied by the community corrections agency and the percentage of real estate not paid by state community corrections. Nothing in these regulations shall prevent a governing authority for charging a community corrections agency for maintenance and utilities for real estate purchased with state community corrections funds.

(b) Purchase of property and supplies.

(1) State community corrections grant funds may be used to purchase property with an expected service life of one year or more. Property and supplies purchased with community corrections grant funds shall remain with the community corrections program for its use. An inventory shall be maintained of all property purchases at a cost of \$1,000.00 or more as prescribed by the secretary, including amortization amounts of real estate purchases, renovations, and capital improvements. If property is acquired using more than one funding source, the amount of each contribution and the source of the contribution shall be recorded on the agency's inventory.

(2) If a community correction program ceases using property or supplies for community corrections purposes and the property and supplies have an aggregate value of over \$75.00, the community corrections agency shall have the option of one of the following:

(A) Transferring the property or supplies to the county and requiring the county to refund to the community corrections agency or state, if the agency has ceased operations, the fair market value of the property;

(B) transferring the property or supplies to the state; or

(C) selling the property or supplies and receiving compensation, in cash, services, or goods, in the amount of the fair market value of the property.

(3) Transfers of property or aggregate supplies purchased for over \$1,000 shall require prior notice to the secretary. All funds received by a community corrections agency as a result of property disposal shall be used as an offset to the expenses in that line item in the agency's current fiscal year budget.

(4) If a community correction program ceases using for community corrections purposes any property or supplies that have an aggregate value of \$75.00 or less, the property shall be deleted from the agency's inventory as unusable, and the agency shall adhere to local county policy to dispose of the property or supplies. Such property or

supplies may be transferred to the inventory of a non-profit agency.

(5) If a community corrections program with property or supplies acquired by using funds from multiple funding sources ceases using the property or supplies or disbands to form more than one program, the value of the property and supplies in proportion to the contribution to its purchase price by community corrections grant funds, minimally, shall be the value retained by the agency, through sale, reimbursement by the other fund, or trade or barter. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 2000 Supp. 75-5291, K.S.A. 75-5296; effective March 5, 1990; amended March 29, 2002.)

44-11-131. Use of grant funds for remodeling or renovation. (a) Grant funds may be used to remodel or renovate space for community corrections use. Any remodeling or renovation with an aggregate cost of \$5,000 or more shall require the prior approval of the secretary. This space may be rented, leased, or owned by the county. Plans detailing the nature and cost of the renovation or remodeling shall be provided to the secretary at the time funds are requested for that purpose. Notification of completion of the renovation or remodeling shall be filed by the program director in writing with the secretary within 30 calendar days of completion of the work. Within 30 calendar days, completion of the work shall be verified by the secretary.

(b) If the renovated or remodeled property ceases to be used for community corrections purposes for reasons other than fire, flood, or other such occurrences that render the property unusable or continued use financially impractical, within five years of the date on which the secretary verified completion of the work, the county or counties shall immediately notify the secretary of the same and shall refund the amount expended for remodeling or renovation, or both.

(c) Leases that include renovation or remodeling costs shall clearly delineate those costs from basic space costs. A copy of the lease shall be provided to the secretary upon execution. Community corrections agencies shall be required to amortize over the period of the lease, not to exceed five years, the value of remodeling and renovations. The amortized value shall be noted in the agency's property inventory. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A.

75-5295, 75-5296; effective March 5, 1990; amended March 29, 2002.)

44-11-132. Use of grant funds to contract for services. (a) Grant funds may be used to contract for services or to provide services directly.

(b) All non-contract employees other than the program director shall be supervised by community corrections personnel.

(c) Each agency shall use a competitive bid process and shall obtain three written bids for the purchase and lease of, or contracting for, any of the following in the aggregate amount of \$1,000 or more:

- (1) Goods;
- (2) equipment; or
- (3) services.

(d) The community corrections agency shall make all contracts between the agency and other entities and individuals available to the secretary for review. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 75-5295, 75-5296; effective March 5, 1990; amended March 29, 2002.)

44-11-133. Use of grant funds to purchase jail space. Grant funds may be used to purchase jail space for purposes of operating a work release program. Grant funds shall not be used to purchase jail space as part of a sentence or to detain an offender pending revocation proceedings. Each community corrections program shall provide a copy of each contract between the program and any detention facility to the secretary at the time of execution. The contract shall specify the purposes for which the purchased jail space will be used and shall acknowledge the restrictions of use imposed by this regulation. (Authorized by K.S.A. 75-5294, 75-5296; implementing K.S.A. 75-5295; effective March 5, 1990; amended March 29, 2002.)

44-11-134. Urinalysis tests for controlled substances. (a) Community corrections programs operating urinalysis testing equipment may seek exemption from department of health and environment requirements by making application for exemption to the secretary of corrections. Programs shall be required to document all testing procedures, the training of the personnel collecting the test samples, the training of the personnel operating the equipment, and a summary of their record keeping procedures. If the documentation review is found to be satisfactory, a des-

ignee of the secretary may personally inspect the testing site. If approval for exemption is granted, it shall be limited to approval for the test results to be used for management purposes only. Management decisions which can appropriately be based on these test results include:

- (1) Changes in levels of supervision;
- (2) movement from intensive supervised probation to house arrest or residential services;
- (3) imposition of community service sanctions; and

- (4) requirement to participate in treatment.

(b) Test results shall not be considered sufficient for purposes of revocation which result in commitment to the custody of the secretary of corrections. Urinalysis test results used for such purposes must be performed by a laboratory approved by the secretary of health and environment. (Authorized by K.S.A. 75-5294, 75-5296, as amended by L. 1989, ch. 92; implementing K.S.A. 1988 Supp. 65-1,108, as amended by L. 1989, ch. 92; effective March 5, 1990.)

44-11-135. Use of grant funds for copyrights and patents; research projects. (a) An item that is developed, designed, or otherwise created with community corrections funds and that is copyrighted, patented, or placed under similar restrictions shall be made available to state agencies and other community corrections programs. The holder of the copyright, patent, or other restriction may recover justified expenses but shall not profit from the sale of these items to state agencies and other community corrections programs.

(b) Research conducted by a community corrections agency or with use of community corrections resources, including staff, funds, and services, shall become part of the public domain. (Authorized by and implementing K.S.A. 75-5294, 75-5296; effective March 5, 1990; amended March 29, 2002.)

Article 12.—CONDUCT AND PENALTIES

CLOTHING, HYGIENE, SAFETY, APPEARANCE AND LIVING QUARTERS

44-12-101. Inmate clothing. (a) Turn-in and issuance. Inmates shall turn in all personal clothing upon admission to a facility. Clothing furnished by the state facility shall be worn by all inmates unless exception is granted by the principal administrator with the approval of the

secretary of corrections. Inmates shall not wear or have in their possession any other clothing, or clothing in excess of the authorized issue, unless specifically authorized by principal administrator's orders.

(b) Principal administrator's orders. Inmates shall follow the principal administrator's orders in regard to the clothing, care, and handling procedure.

(c) No inmate clothing will be given special treatment at the laundry, clothing distribution room, or elsewhere. Exchange of clothing shall be made according to established schedules and procedures. Inmates shall keep their clothing as neat and clean as conditions permit. Violation of this rule shall be a class III offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-102. Personal cleanliness.

Inmates shall shower or bathe a minimum of once a week. Inmates shall brush their teeth a minimum of once a day. Violation of this rule shall be a class III offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-103. Tattoos, body piercing, and body markings.

(a) Inmates shall not place on or remove from, or allow to be placed on or removed from their body any tattoo or body marking, nor shall they place on or remove from the body of another inmate any tattoo or body marking. Removal or alteration of tattoos or body markings shall be performed by a medical officer after written approval has been given by the warden.

(b) Inmates shall not pierce their own bodies or the body of another inmate. Inmates shall not allow their bodies to be pierced by another inmate. Any cosmetic piercing of an inmate's body shall be performed by a physician, dentist, or other medical personnel exempted from licensure requirements according to K.S.A. 65-1941 and amendments thereto, after written approval has been given by the warden. Cosmetic piercing shall be permitted only upon a showing of medical necessity certified by a physician or dentist.

(c) Inmates shall not maintain an existing body piercing hole or opening.

(d) Violation of this regulation shall be a class II offense. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-104. Care of living quarters. Every inmate shall keep his or her living quarters in a neat, clean and sanitary condition. Clothing shall be neatly hung or stored in designated places. Beds shall be made at all times when not in use. Linens shall be exchanged in accordance with the established facility procedures. Wash basins and toilet bowls shall be kept clean. No alteration, painting of, or addition to any assigned quarters or its equipment shall be made without approval according to the orders of the institution or facility. Violation of this rule shall be a class III offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-105. Unsanitary practices. (a) No inmate shall throw trash of any kind upon the floors, sidewalks, or grounds of any facility. All rubbish shall be placed in the containers provided for that purpose. No inmate shall spit upon the floors, sidewalks, and grounds or within any facility building. Violation of this subsection shall be a class III offense.

(b) No inmate shall collect, smear, or throw body wastes. No inmate shall urinate or defecate upon the floors, sidewalks, or grounds of any facility. Violation of this subsection shall be a class I offense.

(c) Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-106. Hair standards and appearance. (a) Each inmate shall keep the inmate's hair neat and clean and follow reasonable health and safety standards. When working in food services, each inmate shall wear a cook's hat, or net, or both for sanitary purposes. Inmates working in food services shall not have facial hair in excess of one inch in length or shall wear beard nets, and shall keep this hair neat and clean.

(b) Violation of this regulation shall be a class III offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1987; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-107. Use of safety devices. Each inmate shall use safety devices provided in

accordance with the orders of the warden. Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-108 to 44-12-200. Reserved.

**PROPERTY AND MONEY; OWNERSHIP,
POSSESSION, REGISTRATION, CARE AND USE**

44-12-201. Registration and use of personal property. (a) It shall be the responsibility of each inmate to make certain that any items of personal property in the inmate's possession as designated by department of corrections internal management policy and procedure or orders of the warden are properly registered. Each inmate shall be required, upon demand, to produce any personal property registered in the inmate's name or issued to the inmate, unless previously reported lost according to proper procedure.

(b) Violation of this regulation shall be a class II offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-202. Radios, televisions, musical instruments, and other sound equipment. (a) All personal radios, televisions, and other electronic sound equipment shall be played only in accordance with the orders of the warden. The size, type, and capacity of this equipment shall be limited by internal management policies and procedures issued by the secretary of corrections. All such equipment, including all musical instruments, shall be possessed and used in accordance with the orders of the warden.

(b) Violation of this regulation shall be a class III offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1981; amended May 1, 1985; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-203. Theft. (a) Theft shall include any of the following acts done with intent to de-

prive the owner permanently of the possession, use, or benefit of the owner's property or services:

(1) Obtaining or exerting unauthorized control over property or services;

(2) obtaining, by deception, control over property or services;

(3) obtaining, by threat, control over property or services; or

(4) obtaining control over stolen property or services and knowing the property or services to have been stolen by another.

(b) Violation of this regulation shall be a class I offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-204. Taking without permission.

(a) No inmate shall take without permission, regardless of the intent, articles of any kind from any other person or place, nor shall the inmate obtain these articles by fraud or dishonesty.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-205. Unauthorized dealing and trading. (a) Trading, borrowing, loaning, giving, receiving, selling, and buying goods, services, or any item with economic value between or among inmates without written permission of the warden or designee shall be prohibited.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1988; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-206. Debt adjustment or collection prohibited. All debt adjustment or collection among inmates is strictly prohibited. Violation of this rule shall be a class II offense.

(Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-207. Gambling and bookmaking.

An inmate shall not make any bet, operate or bank any gambling pool or game, keep book, or engage in any form of gambling. An inmate shall not possess, transfer, sell, distribute, nor obtain dice or other gambling paraphernalia. An inmate shall not receive, possess, distribute, sell, nor transfer lottery tickets. Violation of this rule shall be a class II offense. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1988.)

44-12-208. Misuse of state property. No inmate shall destroy, damage, deface, alter, misuse, or fail to return when due any article of property owned by the state, whether issued by the department of corrections or another state agency, including clothing and shoes. Normal wear and tear to clothing and shoes shall be excepted from this regulation. Violation of this regulation shall be a class II offense. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992; amended July 13, 2007.)

44-12-209. Entering into contracts, incurring financial obligations. No inmate shall enter into a contract, or incur any financial obligation, including orders by mail, without the principal administrator's approval. Violation of this rule shall be a class III offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992.)

44-12-210. Accounts. No inmate shall establish or have access to any checking or savings account outside the trust fund while confined in a correctional facility. Violation of this regulation shall be a class II offense. (Authorized by K.S.A. 2006 Supp. 75-5210; implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended May 1, 1981; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-211. Telephones and other communication devices. (a) When using any authorized inmate telephone, no inmate shall perform or engage in any of the following:

(1) Use another inmate's personalized identification number (PIN) or permit another inmate to use the inmate's PIN;

- (2) be a party to call forwarding;
 - (3) call any telephone number not listed on the inmate's authorized calling list;
 - (4) participate in any call involving a party at a phone number other than that originally called, including receiving information relayed by an intermediary, and either relaying or receiving information over any telephone service other than that authorized by the secretary of corrections for inmate usage;
 - (5) initiate any call to a party on the inmate's authorized calling list and then permit the telephone to be used by another inmate, whether in speaking to the authorized party or to another party; or
 - (6) use the telephone in furtherance of any illegal activity.
- (b) Except as specified in subsection (a), the use or possession of any telephone or any communication device by an inmate without the permission of the warden or warden's designee shall be prohibited.
- (c) Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective July 13, 2007.)

44-12-212. Accessing unauthorized computer-based information. No inmate shall access, or attempt to access, any information, data, images, or other material residing on or stored in any computer or available through any computer network, unless the information, data, images, or other material has been authorized for inmate access by the secretary of corrections and established and maintained by the information technology division of the department of corrections for that purpose.

Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective July 13, 2007.)

44-12-213 to 44-12-300. Reserved.

**DEPARTMENT, VIOLENCE, DISRUPTIVE
BEHAVIOR AND RIOT**

44-12-301. Fighting. Fighting or other activity which constitutes violence, or which is likely to lead to violence, is prohibited unless such activity is in self-defense. Violation of this rule shall be a class I offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-302. Noise. Inappropriate booing,

whistling, shouting, or other loud and disturbing noises are not permitted. Violation of this rule shall be a class III offense. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-303. Lying. (a) Every inmate shall speak the truth. No inmate shall lie, misrepresent the facts, mislead, or give false or misleading information to an officer, employee, or any other person assigned to supervise inmates or others having a right to know. No inmate shall make any false allegations against any officer, employee, inmate, or other person.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-304. Disobeying orders. (a) Each inmate shall promptly and respectfully obey any order, directive, or instruction given to the inmate by any employee of the facility, or by an employee of any other agency or of an organization or firm in charge of the inmate. In case of conflicting orders, the last order shall be obeyed.

(b) If an order is violated, the specific circumstances surrounding the violation charge shall be included in the following:

- (1) The disciplinary report bringing the charge;
- (2) the investigation report, if any; and
- (3) if used, the report writer's written statement in lieu of testimony.

(c) Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-1, Jan. 5, 1983; amended May 1, 1984; amended May 1, 1987; amended July 13, 2007.)

44-12-305. Insubordination or disrespect to officers or other employees. (a) Each inmate shall be attentive and respectful towards employees, visitors, and officials. The showing of disrespect, directly or indirectly, or being argumentative in any manner shall be considered insubordination. This regulation shall exclude an initial exchange or discussion in a civilized tone for the purpose of clarification of the order if the

exchange or discussion is not disrespectful or argumentative.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-306. Threatening or intimidating any person. (a) An inmate shall not threaten or intimidate, either directly or indirectly, any person or organization.

This regulation shall specifically prohibit conditional threats or intimidation. Violation of this subsection shall be a class I offense.

(b) A civilized warning by the inmate that the inmate may properly use legal process to enforce rights or redress wrongs, including use of the inmate grievance procedure, shall not be considered a violation of this regulation.

(c) The subjective impression of the target of the alleged threat or intimidation shall not be a factor in proving a violation of subsection (a). (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1984; amended May 1, 1986; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-307. Avoiding an officer. No inmate shall run from or deliberately avoid any officer, supervisor, or employee if required, ordered, or requested to be present to talk with, be accounted for, be searched, or be questioned by the officer, supervisor, or employee. Violation of this regulation shall be a class I offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-308. Improper use of prepared or served food. No inmate shall accept more prepared or served food or drink than the inmate will consume. No inmate shall wastefully and deliberately destroy prepared or served food. Inmates shall not carry any prepared or served food or drink from the dining area, except as allowed under the facility orders. Violation of this regulation shall be a class III offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; ef-

fective May 1, 1980; amended April 20, 1992; amended July 13, 2007.)

44-12-309. Kitchen utensils and shop tools. (a) No inmate shall remove or have in possession any eating or cooking utensils or tools without proper authorization.

(b) Violation of this regulation shall be a class II offense. However, possession of utensils or tools may be considered possession of dangerous contraband and punishable as a class I offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-310. Misconduct in dining room. (a) All inmates shall enter and leave the dining room in accordance with the established procedure at each facility, and shall conduct themselves in an orderly manner while in the dining room.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

This amendment shall be effective on and after February 15, 2002. (Authorized by K.S.A. 75-5210; implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-311. Being in a condition of drunkenness, intoxication, state of altered consciousness. No inmate shall at any time be drunk, intoxicated, or be in a chemically induced state of altered consciousness. Violation of this rule shall be a class I offense. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-312. Use of stimulants, sedatives, unauthorized drugs, or narcotics, or the misuse or hoarding of authorized or prescribed medication. (a) No inmate shall take into the bodily system any kind of substance that is capable of producing intoxication, hallucination, stimulation, depression, dizziness, or other alteration of the inmate's state of consciousness or feeling, except approved foods, including coffee and tea, and legal drugs, including medication properly and legally prescribed or authorized for a specific inmate by an authorized licensed physician. Alcohol

in any form shall be specifically declared not to be an approved food or drink unless it is a component of authorized or prescribed medication.

(b) Misusing, hoarding, tampering with, or defacing any authorized or prescribed medication shall be prohibited.

(1) "Misusing" medication shall mean using any medication for a purpose other than that for which the medication was specifically authorized or prescribed. This shall include either of the following:

(A) Keeping the medication beyond the stop date, as designated by the health care provider; or

(B) dealing and trading prescribed medications within the meaning of K.A.R. 44-12-205.

(2) "Hoarding" medication shall mean having possession or control of or holding any quantity of authorized or prescribed medication greater than an amount or dosage that has been issued to the inmate by medical staff, or greater than the amount that should be remaining if the inmate has taken the medication in accordance with the prescription and instructions from medical staff. Approved over-the-counter medications shall be purchased and possessed only in reasonably consumable quantities.

(3) "Tampering with or defacing" shall mean altering or disfiguring the original packaging of a medication or removing the medication from the original packaging to any other bottle or container.

(c) No inmate shall leave the infirmary or any area where medication is issued while in possession or control of any medication unless removal of the medication from this area has been authorized by medical staff.

(d) Each of the following by an inmate shall create a presumption that the inmate has used a substance prohibited for consumption by this regulation and shall constitute a violation of this regulation:

(1) Refusal to provide a urine sample or other sample of bodily fluid or tissue pursuant to an authorized alternate substance abuse testing method;

(2) failure to provide a urine sample or other sample of bodily fluid or tissue of sufficient quantity; or

(3) failure to provide any sample of urine, bodily fluid, or tissue within two and one-half hours. A bona fide medical or psychological condition verified by a duly licensed practitioner that prevents or hampers the provision of any sample within a period of two and one-half hours shall constitute a defense to this charge.

(e) Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-313. Sexually explicit materials.

(a) No inmate shall have in possession or under control any sexually explicit materials, including drawings, paintings, writing, pictures, items, and devices.

(b) The material shall be considered sexually explicit if the purpose of the material is sexual arousal or gratification and the material meets either of the following conditions:

(1) Contains nudity, which shall be defined as the depiction or display of any state of undress in which the human genitals, pubic region, buttock, or female breast at a point below the top of the areola is less than completely and opaquely covered; or

(2) contains any display, actual or simulated, or description of any of the following:

(A) Sexual intercourse or sodomy, including genital-genital, oral-genital, anal-genital, and anal-oral contact, whether between persons of the same or differing gender;

(B) masturbation;

(C) bestiality; or

(D) sadomasochistic abuse.

(c) Each violation of this regulation by inmates classified as sex offenders shall be a class I violation.

(d) Each violation of this regulation by inmates not classified as sex offenders shall be a class II violation.

(e) Each violation of this regulation by any inmate if the sexually explicit material depicts, describes, or exploits any child under the age of 18 years shall be a class I offense. (Authorized by and implementing K.S.A. 2003 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002; amended, T-44-3-19-04, March 19, 2004; amended July 2, 2004.)

44-12-314. Sexual activity; aggravated sexual activity; sodomy; aggravated sodomy.

(a) No inmate shall commit or induce others to commit an act of sexual intercourse or sodomy, even with the consent of both parties. Participation in such an act shall be prohibited.

(b) No inmate shall force or intimidate another person to engage in sexual intercourse or sodomy. No inmate shall solicit or arrange for the appli-

cation of force or intimidation by another person in order to engage in sexual intercourse or sodomy with another person. No inmate shall participate in any scheme or arrangement to force or intimidate another person to engage in sexual intercourse or sodomy.

(c) (1) Sexual intercourse shall mean any penetration of the female sex organ by a finger, the male sex organ, or any object. Any penetration, however slight, shall be deemed sufficient to constitute sexual intercourse.

(2) Sodomy shall be defined as any of the following:

(A) Oral contact with or oral penetration of the female genitalia or oral contact with the male genitalia;

(B) anal penetration, however slight, of a male or female by any body part or object; or

(C) oral or anal copulation or sexual intercourse between a person and an animal.

(d) Violation of this regulation shall be a class I offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended May 1, 1984; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-315. Lewd acts. (a) No inmate shall engage in a lewd or lascivious manner in any act of kissing, fondling, touching, or embracing, whether with a person of the same or opposite sex.

(b) An inmate shall not intentionally expose or manipulate a sex organ with the knowledge or reasonable anticipation that the inmate will be viewed by others or with the intent to arouse or gratify the sexual desires of the inmate or another. A violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended July 13, 2007.)

44-12-316. (Authorized by and implementing K.S.A. 1982 Supp. 75-5210; effective May 1, 1980; amended May 1, 1984; revoked April 20, 1992.)

44-12-317. Falsifying documents. No inmate shall falsify any document. Violation of this rule shall be a class II offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-318. Disruptive behavior. (a) No

inmate shall start or get others to start, or perform or participate in, or help others to perform or participate in any disruptive behavior.

(b) Violation of this regulation shall be a class II offense. Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

This amendment shall be effective on and after February 15, 2002. (Authorized by K.S.A. 75-5210; implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-319. Riot or incitement to riot. (a)

Riot is any use of force or violence by three or more persons acting together and without the authority of law which produces a breach of the peace on the premises of a correctional facility whether within or without the security perimeter itself, or any threat to use such force or violence against any person or property, if accompanied by power or apparent power of immediate execution.

(b) Incitement to riot is urging others by words or conduct to engage in riot under circumstances which produce a clear and present danger of injury to persons or property, or a breach of the peace. Violation of this rule shall be a class I offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-320. This revocation shall be effective on and after February 15, 2002. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980; revoked Feb. 15, 2002.)

44-12-320a. Interfering with official duties. No inmate shall intentionally disrupt, sabotage, impede, or interfere with the performance of official duties by any officer, employee, or contract employee. Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective July 13, 2007.)

44-12-321. Conduct regarding visitors or the public. (a) Each inmate shall treat visitors and members of the public in a respectful and helpful manner. Each inmate shall comply with the orders of the warden regarding contact with visitors and the public and shall maintain a dignified and respectful demeanor while in the presence of these individuals.

(b) Violation of this regulation shall be a class II offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-322. Arson. Arson is knowingly, by means of fire or explosive, damaging any property. Violation of this rule shall be a class I offense. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-323. Assault. An assault is an intentional threat or attempt to do bodily harm to another, coupled with apparent or recognizable ability to carry out the threat or attempt, and resulting in immediate apprehension or fear of bodily harm. No bodily contact is necessary. Violation shall be a class I offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-324. Battery. Battery is the unlawful or unauthorized, intentional touching or application of force to the person of another, when done in a rude, insolent, or angry manner. Violation of this rule shall be a class I offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-325. Security threat groups; inmate activity; limitations. (a) No proselytizing of religious faiths or beliefs shall be allowed in the facilities. "Proselytizing" shall be defined as an active effort to persuade a person to convert to a religious belief without the person's prior consent. However, nothing in this regulation shall prohibit one-to-one conversation about religious matters. Violation of this subsection shall be a class III offense.

(b) Inmates shall not serve in the capacity of clergy or religious instructors at any time except for purposes of K.A.R. 44-7-113, on recommendation of chaplain and the approval of the warden. Violation of this subsection shall be a class III offense.

(c) Inmates shall not develop, organize, promote, or assist any security threat group and shall not engage in any activity calculated to incite a demonstration by any security threat group. Inmates shall not possess any item, whether in its original condition or in an altered state, associated or identified with any security threat group. "Security threat group" shall mean any ongoing formal or informal organization, association, or group

of three or more persons with a common name or identifying sign or symbol, but without specific approval by the warden. Violation of this subsection shall be a class I offense. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-326. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective, T-84-32, Nov. 23, 1983; effective May 1, 1984; amended April 20, 1992; revoked Feb. 15, 2002.)

44-12-327. Interference with restraints. (a) No inmate shall interfere with or assist other inmates in interfering in any way with handcuffs or other restraints that have been, or are being, applied to the inmate by an officer or employee. An inmate shall not remove or attempt to remove that inmate or another inmate from handcuffs or other restraints without approval of an officer or employee.

(b) Violation of this regulation shall be a class I offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1988; amended Feb. 15, 2002.)

44-12-328. Undue familiarity. (a) No inmate shall solicit, encourage, establish, or participate in any type of personal relationship with any staff member, contract personnel, volunteer, or employee of any other organization in charge of the inmate. A personal relationship shall be defined as any relationship involving unnecessary familiarity by the inmate toward any such individual. Any contact between an inmate and staff member other than a polite exchange of remarks or casual conversation shall be limited to that contact necessary to allow any such individual to carry out official duties and provide authorized assistance to the inmate in a professional manner.

(b) Violation of this regulation shall be a class I offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective April 20, 1992; amended Feb. 15, 2002.)

44-12-329 to 44-12-400. Reserved.

**ASSIGNMENTS TO AND PERFORMANCE
OF WORK, EDUCATION, TRAINING,
OR OTHER DUTY**

44-12-401. Work performance. (a) No inmate shall intentionally interfere with, delay, or disrupt work in progress, or sabotage the work, machinery, systems, or products, nor shall any inmate assist or participate in these actions. Violation of this subsection shall be a class I offense.

(b) Each inmate shall perform work assigned in the manner prescribed and according to the directives of the inmate's supervisor or other authorized official. Intentional failure to report to or depart from work at the prescribed time and without unnecessary delay en route shall be prohibited. Violation of this subsection shall be a class II offense. Alternatively, violation of this subsection may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

(c) No inmate shall slow the work progress through carelessness or neglect. Violation of this subsection shall be a class II offense. Alternatively, violation of this subsection may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

(d) No inmate shall be tardy for work. Violation of this subsection shall be a class III offense.

(e) "Work," as used in this regulation, shall include any work assignment, educational, vocational, treatment, or training program to which an inmate has been assigned.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1988; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-402 to 44-12-500. Reserved.**BEING PRESENT AND ACCOUNTED FOR****44-12-501. Answering calls or passes.**

(a) Each inmate shall respond promptly to all calls made for the inmate and shall move from place to place as required by the orders of the facility. No inmate shall destroy a pass issued to that inmate. Each inmate shall present a pass to the proper person at the time and place indicated on the pass.

(b) Violation of this regulation shall be a class III offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and imple-

menting K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-502. Responsibility for counts.

Every inmate shall be present at the proper time and place of counts, in accordance with the orders of the principal administrator. Causing a delay that renders the count inaccurate or more difficult, or failure to be present during the count process shall be considered as fouling count. Violation of this rule shall be a class I offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-12-503. Restricted area and unauthorized presence or out-of-place in assigned domicile.

(a) Restricted area. Each inmate shall be aware of all restricted areas. No inmate shall enter a restricted area without a direct order by a correctional employee authorized to render this order or unless expressly permitted in writing by the warden. Violation of this subsection shall be a class II offense. Alternatively, violation of this subsection may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b.

(b) Unauthorized presence. No inmate shall be present in any area without authorization. If a pass is required, the inmate shall show the pass when required to do so. Specific permission or authorization, whether verbal or written, shall be required for an inmate to be present at any location at any time. Violation of this subsection shall be a class III offense.

(c) Out-of-place in assigned domicile. An inmate shall not roam about in the housing unit and shall not be any place in the housing unit without permission of the unit team. This subsection shall apply to conditions where the inmate's presence generally in the living unit itself is otherwise authorized. Violation of this subsection shall be a class III offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-504. Interference with cell operation and visibility.

(a) No inmate shall block or otherwise interfere with the operation of the cell opening and closing mechanism in any way, including food passage ports or slots. No inmate shall cover the inmate's cell, including food pas-

sage ports or slots, so as to block visibility into the cell, except as allowed by the warden's orders.

(b) Violation of this regulation shall be a class I offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1987; amended Feb. 15, 2002.)

44-12-505. Restriction. No inmate shall avoid, break, or violate the terms of a restriction which has been imposed upon him or her. Violation of this rule shall be a class II offense. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-505b. Medical restriction. In order not to aggravate any injury, illness, or other medical condition, no inmate shall participate in any work or recreational activities, or partake of food items, in violation of a documented medical restriction that the inmate has received. Violation of this regulation shall be a class III offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective April 20, 1992; amended Feb. 15, 2002.)

44-12-506. Change of name as it appears on journal entry of sentence, convictions. In all matters an inmate shall respond to officials when addressed by the name under which he was committed to the custody of the secretary of corrections until discharged from sentence. An inmate shall be referred to in all official transactions, and all correspondence to and from the inmate, under the name used in the journal entry of convictions and commitment throughout his or her period of incarceration. In the event of a legal name change, the records may reflect the new name as an alias and the inmate may use the alias name in parentheses after the conviction name. All directives to, references to, or orders to an inmate by his convicted name shall be complied with regardless of the fact that he or she may have changed his or her name. No charge shall be made against any inmate under this rule because the inmate is the addressee of any mail, phone call, document or other communication under the non-conviction name unless it is alleged and proven that the inmate was knowing and willing conspirator or instigator of such use of non-conviction name. Violation of this rule shall be a class

II offense. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-507 to 44-12-600. Reserved.

INMATE WRITING AND OTHER INMATE COMMUNICATIONS OR PUBLICATIONS

44-12-601. Mail. (a) Definitions.

(1) (A) "Legal mail" means mail affecting the inmate's right of access to the courts or legal counsel. This term shall be limited to letters between the inmate and any lawyer, a judge, a clerk of a court, or any intern or employee of a lawyer or law firm, legal clinic, or legal services organization, including legal services for prisoners.

(B) "Official mail" means any mail between an inmate and an official of the state or federal government who has authority to control, or to obtain or conduct an investigation of, the custody or conditions of confinement of the inmate.

(C) "Privileged mail" means any mail between the inmate and the inmate's physician, psychiatrist, psychologist, or other licensed mental health therapist.

(2) (A) "Censor" means to remove or change any part or all of the correspondence or literature.

(B) "Inspect" means to open, shake out, look through, feel, or otherwise check for contraband without reading or censoring. This term shall include any cursory reading necessary to verify that mail is legal or official in nature as permitted by paragraph (f)(3).

(C) "Read" means to read the contents of correspondence or literature to ascertain the content.

(b) General provisions.

(1) Each inmate shall comply with the mail procedures and restrictions established by the order of the warden of the facility. Failure to comply with mail procedures or restrictions, or circumventing or attempting to circumvent mail procedures or restrictions by any means, shall be prohibited. The delivery of mail through an employee, volunteer, teacher, or any other person who is not authorized to perform functions related to the established mail-handling system shall be prohibited.

(2) Contraband. Items identified as contraband shall be dealt with as provided in subsection (d) and then either returned to the sender at the inmate's expense or destroyed, at the inmate's option. Items illegal under Kansas or U.S. federal law shall be seized and held as evidence for other law enforcement officers.

(3) All incoming mail shall identify the inmate recipient by name and inmate identification number.

(4) Violation of mail regulations of the department of corrections, orders of the warden, or the laws of Kansas or the United States may result in additional mail restrictions upon the offender that are sufficient to prevent the continuation or reoccurrence of the violation.

(5) All funds sent for deposit to an inmate's trust account shall be in the form of a money order, a cashier's check, or a certified check. These funds shall be sent to the centralized banking location or individual work release location designated by the secretary. Except for correspondence qualifying as legal mail in which funds are enclosed in an envelope clearly marked as such, correspondence or other material sent with funds shall not be forwarded and shall be discarded.

(6) Any incoming or outgoing mail other than legal, official, or privileged mail may be inspected or read at any time.

(7) Incoming mail addressed solely to a specific inmate and not otherwise subject to censorship shall be delivered regardless of whether the mail is sent free of charge or at a reduced rate. All incoming mail shall nonetheless bear the sender's name and address on the envelope, or this mail shall not be delivered and shall be subject to censorship in accordance with subsection (d).

(8) Any outgoing first-class letters may be sent to as many people and to whomever the inmate chooses, subject to the restrictions in this regulation.

(9) Outgoing inmate mail shall bear the full conviction name, inmate number, and address of the sender, and the name and address of the intended recipient. No other words, drawings, or messages shall be placed on the outside of the envelope or package by an inmate except words describing the mail as being legal, official, privileged, or intended to aid postal officials in delivery of the item. Outgoing inmate mail shall be stamped by the facility to indicate that it was mailed from a facility operated by the department of corrections and that it has not been censored.

(10) Inmates shall not correspond with any person, either directly or through third parties, who has filed a written objection to the correspondence with the director of victim services in the department of corrections central office. The director of victim services in the department of corrections central office shall notify the warden of

the facility where the offender is incarcerated of any written objections to correspondence sent by the offender within three business days of receipt of the objection.

(A) The inmate shall be notified of the objection in writing when it is received, but shall not be required to be informed of the exact contents of the objection.

(B) In the instance of unwanted correspondence to a minor, the objection shall be filed by the parent or guardian of the minor.

(C) Orders shall be developed by the warden of each facility to prevent further correspondence from being sent to those who have filed an objection.

(D) This regulation shall not prevent an inmate from writing to the inmate's natural or adoptive child, unless the child was the victim of the crime for which the inmate is incarcerated and the person having legal custody of the child files a written objection with the director of victim services in the department of corrections central office, and the inmate has not obtained a court order permitting this written communication with the child. The director of victim services in the department of corrections shall inform the warden of the facility where the inmate is assigned of any objection from the person having legal custody of the child within three business days of its receipt.

(c) Legal, official, and privileged mail.

(1) Subject to the provisions of paragraph (f)(3), outgoing privileged, official, or legal mail sent by any inmate shall be opened and read only upon authorization of the warden for good cause shown. However, if any inmate threatens or terrorizes any person through this mail, any subsequent mail, including official or legal mail, from the inmate to the person threatened or terrorized may, at the request of that person, be read and censored for a time period and to the extent necessary to remedy the abuse.

(2) Incoming mail clearly identified as legal, official, or privileged mail shall be opened only in the inmate's presence. This mail shall be inspected for contraband but shall not be read or censored, unless authorized by the warden based upon a documented previous abuse of the right or other good cause.

(3) All legal mail and official mail will be indefinitely forwarded to the inmate's last known address. If any mail is returned to a facility as undeliverable when sent to the inmate's last known address, the mail shall be returned to the sender

with a notice that the mail was forwarded unsuccessfully and is now returned to the sender for further disposition.

(d) Censorship grounds and procedures.

(1) Incoming or outgoing mail, other than legal, official, or privileged mail, may be censored only when there is reasonable belief in any of the following:

(A) There is a threat to institutional safety, order, or security.

(B) There is a threat to the safety and security of public officials or the general public.

(C) The mail is being used in furtherance of illegal activities.

(D) The mail is correspondence between offenders, including any former inmate regardless of current custodial status, that has not been authorized according to subsection (e). Correspondence between offenders may be inspected or read at any time.

(E) The mail contains sexually explicit material, as defined and proscribed by K.A.R. 44-12-313.

(2) If any communication to or from an inmate is censored, all of the following requirements shall be met:

(A) Each inmate shall be given a written notice of the censorship and the reason for the censorship, without disclosing the censored material.

(B) Each inmate shall be given the name and address of the sender of incoming mail, if known, or the addressee of outgoing mail and the date the item was received in the mail room. Notice of the censorship of correspondence by the facility shall be provided to the sender, if known, by staff in the facility's mail room within three business days of the decision to censor.

(C) The author or addressee of the censored correspondence shall have 15 business days from the date of the notice of censorship to protest that decision.

(D) All protests shall be forwarded to the secretary of corrections or the secretary's designee for final review and disposition.

(E) Each inmate shall have the option of having censored correspondence or other materials in their entirety either mailed out at the expense of the inmate or discarded.

(e) Offender correspondence with other offenders.

Offenders sentenced to the custody of the Kansas department of corrections shall not correspond with any person who is in the custody of or under the supervision of any state, federal, county,

community corrections, or municipal law enforcement agency, or with any former inmate regardless of current custodial status, unless either of these conditions is met:

(1) The proposed correspondents are members of the same immediate family or are parties in the same legal action, or one of the persons is a party and the other person is a witness in the same legal action.

(2) Permission for correspondence is granted due to exceptional circumstances. Verification and approval of offender correspondence shall be conducted pursuant to the internal policies and procedures of the department of corrections.

(f) Writing supplies and postage.

(1) Stationery and stamps shall be available for purchase from the inmate canteen.

(2) Indigent inmates, as defined by the internal management policies and procedures of the department of corrections, shall receive reasonable amounts of free writing paper, envelopes, and postage for first-class domestic mail weighing one ounce or less, not to exceed four letters per month.

(3) All postage for legal and official mail shall be paid by the inmate, unless the inmate is indigent, as defined by the internal management policies and procedures of the department of corrections. The cost of postage for legal or official mail paid by the facility on behalf of an indigent inmate shall be deducted from the inmate's funds, if available. Credit for postage for legal and official mail shall be extended to indigent inmates under the terms and conditions of the internal management policies and procedures of the department of corrections. Outgoing legal or official mail sent with postage provided on credit shall be subject to inspection and a cursory reading in the presence of the inmate for the purpose of ascertaining that the mail is indeed legal or official mail, and the inmate shall then be permitted to seal the envelope containing the mail.

(4) The facility shall not pay postage for inmate groups or organizations.

(5) The mailing of postage stamps by an offender shall be prohibited.

(g) Publications.

(1) Inmates may receive books, newspapers, and periodicals as permitted by the internal management policies and procedures of the department of corrections. All books, newspapers, and periodicals shall be purchased through account withdrawal requests. Only books, newspapers, and

periodicals received directly from a publisher or a vendor shall be accepted. However, an inmate shall be permitted to receive printed material, including newspaper and magazine clippings, if the material is included as part of a first-class letter that does not exceed one ounce in total weight.

(2) The procedures for censorship of mail listed in subsection (d) of this regulation shall be used for censorship of publications.

(3) No publication that meets either of the following conditions shall be allowed into the facility:

(A) Contains sexually explicit material, as described in K.A.R. 44-12-313, or is otherwise illegal, in whole or in part; or

(B) meets, in whole or in part, the test for censorship of mail in subsection (d) of this regulation.

(4) Inmates shall have the option of having censored publications in their entirety either mailed out of the facility at their own expense or discarded.

(5) Before transferring between facilities, the inmate shall arrange for a change of address for the inmate's mail, including newspapers and periodicals. Mail, with the exception of legal mail or official mail, shall not be forwarded for more than 30 days after the date of transfer.

(h) Regulation violation. Each violation of this regulation shall be a class II offense. (Authorized by K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251, and K.S.A. 75-5256; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended May 1, 1986; amended May 1, 1988; amended April 20, 1992; amended Jan. 3, 1995; amended April 17, 1998; amended Feb. 15, 2002; amended, T-44-3-19-04, March 19, 2004; amended July 2, 2004; amended July 13, 2007.)

44-12-602. Posting notices. No inmate may post or distribute any written communications without the written approval of the warden or designee. Violation of this regulation shall be a class II offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-603 to 44-12-700. Reserved.

LEGAL WORK; LAW LIBRARY, LEGAL ASSISTANCE

44-12-701. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980; revoked April 20, 1992.)

44-12-702. Legal assistance by inmates.

In accordance with applicable rules of the facility, an inmate may give, but shall not charge for, assistance in legal matters to another inmate if the assistance is requested by the other inmate. Violation of this regulation shall be a class II offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by K.S.A. 75-5210; implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-703 to 44-12-800. Reserved.

ADMINISTRATION PUBLICATIONS AND POSTINGS

44-12-801. Bulletin boards. (a) No inmate shall remove any item from any bulletin board. Each inmate shall be held responsible for compliance with orders published by posting on the bulletin boards. Bulletin boards shall be used by and shall be under the exclusive control of the warden or designee.

(b) Violation of this regulation shall be a class II offense.

This amendment shall be effective on and after February 15, 2002. (Authorized by K.S.A. 75-5210; implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended Feb. 15, 2002.)

44-12-802 to 44-12-900. Reserved.

CONTRABAND

44-12-901. Dangerous contraband. (a) Dangerous contraband shall be defined as any of the following:

(1) Any item, or any ingredient or part of or instructions on the creation of an item, that is inherently capable of causing damage or injury to persons or property, or is capable or likely to produce or precipitate dangerous situations or conflict, and that is not issued by the department of corrections or the facilities, sold through the canteen, or specifically authorized or permitted by order of the secretary of corrections or warden for use or possession in designated areas of the facility;

(2) any item that can be the basis for a charge of felony for its possession under the laws of Kansas or the United States; or

(3) any item that, although authorized, is misused if the item in its misused form has the characteristics of being able to cause damage or injury to persons or property or being likely to precipitate dangerous situations or conflicts.

(b) All contraband shall be confiscated and shall be ordered forfeited by the inmate.

(c) No inmate shall possess, hold, sell, transfer, receive, control, or distribute any dangerous contraband.

Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended July 13, 2007.)

44-12-902. Contraband. (a) Contraband shall be defined as either of the following:

(1) Any item, or any ingredient or part of or instructions for the creation of the item, that is not issued by the department of corrections, sold through the facility canteen, or specifically authorized or permitted by order of the secretary of corrections or warden for use or possession in designated areas of the facility; or

(2) any item that, although authorized, is misused in a way that causes some danger or injury to persons or property.

(b) All contraband shall be confiscated and shall be ordered forfeited by the inmate.

(c) No inmate shall possess, hold, sell, transfer, receive, control, or distribute any type of contraband. Violation of this subsection shall be a class II offense.

(d) No inmate shall possess papers, bottles, containers, trash, or any other items in excess of those limits established by regulation, internal management policies and procedures, and facility general orders. The possession of excess items described in this subsection shall be considered nuisance contraband and shall be a class III offense.

(e) Alternatively, violation of this regulation may be handled according to the summary disposition procedure set forth in K.A.R. 44-13-201b. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-903. Tobacco contraband. (a) For the purposes of this regulation, each of the following terms shall have the meaning specified in this subsection:

(1) "Tobacco products" means cigarettes, cigars, pipe tobacco, loose-leaf tobacco, chewing tobacco, and smokeless tobacco. This term shall not include pharmacological aids for smoking cessation approved by the food and drug administration.

(2) "Tobacco substitutes" means any substance ingested by smoking, and any herbal or leaf-based replacements for chewing tobacco. This term shall not include any controlled substance, as defined by K.S.A. 65-4101(e) and amendments thereto.

(3) "Smoking paraphernalia" means pipes, lighters, matches, altered batteries, cigarette papers, rolling machines, and all other items fabricated, developed, or processed for the primary purpose of facilitating the use or possession of tobacco products or tobacco substitutes.

(b) No inmate shall possess, hold, sell, transfer, receive, control, or distribute tobacco products, tobacco substitutes, or smoking paraphernalia, except as specified in subsection (d).

(c) No inmate shall possess, hold, sell, transfer, receive, or control tobacco products, tobacco substitutes, or smoking paraphernalia that is intended to be introduced or distributed upon the grounds of a correctional facility.

(d) Inmates may engage in bona fide religious activities sanctioned by the warden of the facility involving the use and possession of tobacco products, tobacco substitutes, and smoking paraphernalia as permitted by and in accordance with the terms of internal management policies and procedures of the secretary.

(e) Violation of this regulation shall be a class I offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective July 13, 2007.)

44-12-904 to 44-12-1000. Reserved.

VIOLATION OF STATUTES, REGULATIONS AND ORDERS

44-12-1001. Violation of statutes, other regulations, or orders. (a) Unless otherwise designated in this rule book, violation of state or federal statutes shall be a class I offense if the statute is a felony crime. A violation shall be a class II offense if the statute designates a misdemeanor criminal offense.

(b) Unless otherwise designated in this rule book, violation of any civil penalty statute or any regulation shall be a class III offense. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1981; amended April 20, 1992.)

44-12-1002. Violation of published internal management policies and procedures or of published orders. Each violation of any published internal management policies and procedures of the secretary of corrections or any published orders of the warden of the facility shall be

an offense of the class stated in the internal management policy and procedure or in the order itself. If no class is stated, the violation shall be a class III offense. Each violation of any internal management policy and procedure shall be subject to the penalties that are prescribed in the internal management policy and procedure. If no penalty is prescribed, then the violation shall be subject to the penalties provided in this article of regulations. (Authorized by and implementing K.S.A. 2002 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended Feb. 15, 2002; amended, T-44-3-11-03, March 11, 2003; amended July 25, 2003.)

44-12-1003 to 44-12-1100. Reserved.

ATTEMPT, CONSPIRACY AND ACCESSORY TO COMMISSION OF OFFENSE

44-12-1101. Attempt, conspiracy, accessory, solicitation; liability for offenses of another. Each attempt or conspiracy to violate any regulation, or acting as an accessory for any offense, or soliciting another or other persons to commit any offense, shall carry the same penalty as that for the offense itself. The specific regulation that is the basis of the attempt, conspiracy, accessory, or solicitation shall be stated and described in the disciplinary report.

(a) Attempt.

(1) An attempt shall mean any overt, or clearly evident, act toward the perpetration of an offense by an inmate who intends to commit the offense but fails in the perpetration of the offense or is prevented from or intercepted in executing that offense.

(2) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed, the means employed, or the act itself was such that the commission of the offense was not possible.

(b) Conspiracy.

(1) A conspiracy shall mean an agreement with another person to commit an offense or to assist in committing an offense. No inmate may be convicted of a conspiracy unless an overt act furthering that conspiracy is alleged and proved to have been committed by the inmate or by a coconspirator.

(2) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy and communicated

the fact of this withdrawal to one or more of the accused conspirators, before any overt act furthering the conspiracy was committed by the accused or by a coconspirator.

(c) Accessory to an offense. Aiding an offender or one charged with an offense shall mean knowingly harboring, concealing, or aiding any inmate who has committed an offense, or one who has been charged with an offense, with intent that the inmate will avoid or escape from apprehension, disciplinary hearing conviction, or punishment for the offense.

(d) Solicitation. Solicitation shall mean commanding, encouraging, or requesting another person to commit an offense, attempt to commit an offense, or aid and abet in the commission or attempted commission of an offense for the purpose of promoting or facilitating the offense. It shall not be a defense to a charge of solicitation that the inmate failed to communicate with the person solicited to commit the offense if the inmate's conduct was designed to effect a communication. It shall be a defense to a charge of solicitation that the inmate, after soliciting another person to commit an offense, persuaded that person not to do so or otherwise prevented the commission of the offense, under circumstances manifesting a complete and voluntary renunciation of the inmate's prohibited purposes.

(e) Liability for the offenses of another. An inmate shall be responsible for an offense committed by another if the inmate intentionally aids, abets, advises, hires, counsels, or procures the other to commit the offense. The specific underlying regulation violation committed by the other inmate that is the subject of the activity of aiding, abetting, advising, hiring, counseling, or procuring shall be stated and described in the disciplinary report. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective, E-79-37, Jan. 1, 1979; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended April 20, 1992; amended July 13, 2007.)

44-12-1102 to 44-12-1200. Reserved.

INCREASED PENALTIES

44-12-1201. Increased penalty for involving or victimizing an inmate under 18. (a) If any inmate who is 18 years of age or older involves, induces, or solicits an inmate who is less than 18 to commit an offense, or if the victim of

an offense committed by the older inmate is an inmate who is less than 18, the older inmate may be subject to a penalty that is double the penalty established for the offense under these regulations. One of the following findings shall be necessary to invoke this increased penalty:

(1) The older inmate is guilty of the same offense as that committed by the younger inmate.

(2) The older inmate is guilty of a violation of K.A.R. 44-12-1101 with respect to that offense.

(3) The older inmate is guilty of an offense involving the victimization of the younger inmate.

(b) The limitations of K.A.R. 44-12-1308 regarding sentences of disciplinary segregation shall be construed, within the context of K.A.R. 44-12-1201, to mean that the total length of a sentence of disciplinary segregation for all charges arising from a single incident shall not exceed 120 days. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended April 20, 1992; amended July 13, 2007.)

44-12-1202. Conviction of four offenses in six months. Upon conviction of the fourth offense of the same class within the immediate prior six month period, the hearing officer may impose a sentence for such fourth offense not greater than twice the maximum that can be imposed for an offense of that class. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended April 20, 1992; amended Jan. 3, 1995.)

44-12-1203 to 44-12-1300. Reserved.

CLASSIFICATION OF OFFENSES AND PENALTIES

44-12-1301. Class I offenses. (a) Class I offenses shall be any of the following:

(1) Those violations of a very serious nature that are designated in this article as class I offenses, whether or not the offense is also a violation of law;

(2) those violations of law designated by the laws of the state of Kansas as felonies; or

(3) those violations of law designated by the laws of the United States as felonies.

(b) The penalty for a class I offense may be any one or all, or any combination of the following, unless prohibited in this subsection:

(1) Disciplinary segregation, not to exceed 45 days;

(2) loss of "good time credits," not to exceed six months;

(3) extra work without incentive pay for not more than two hours each day, not to exceed 30 days;

(4) work without incentive pay, not to exceed five days. This penalty shall not include a fine and shall apply only to ordinary inmate work assignments;

(5) restriction to inmate's own cell, not to exceed 10 days;

(6) restriction from privileges, not to exceed 60 days;

(7) a fine of not more than \$20.00, unless prohibited by paragraph (b)(4);

(8) restitution of at least \$3.00; or

(9) an oral or written reprimand. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended April 20, 1992; amended July 13, 2007.)

44-12-1302. Class II offenses. (a) Class II offenses shall be any of the following:

(1) Those offenses of moderate seriousness that are designated in this article as class II offenses, whether or not the offenses are also violations of the law;

(2) those violations of law designated by the laws of the state of Kansas as misdemeanors; or

(3) those violations of law designated by the laws of the United States as misdemeanors.

(b) The penalty for a class II offense may be any one or any combination of the following, unless prohibited in this subsection:

(1) Disciplinary segregation, not to exceed 15 days;

(2) loss of good time credits, not to exceed three months;

(3) extra work without incentive pay for not more than two hours each day, not to exceed 20 days;

(4) work without incentive pay, not to exceed five days. This penalty shall not include a fine and shall apply only to ordinary inmate work assignments;

(5) restriction to inmate's own cell for a period, not to exceed seven days;

(6) restriction from privileges, not to exceed 30 days;

(7) a fine of not more than \$15.00, unless prohibited by paragraph (b)(4);

(8) restitution of at least \$3.00; or

(9) an oral or written reprimand. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended April 20, 1992; amended July 13, 2007.)

44-12-1303. Class III offenses. (a) Class III offenses shall be those offenses of a less serious nature that are designated in this article as class III offenses, whether or not the offense is also a violation of law. Each violation of any published secretary of corrections' regulation or order of the warden that is not otherwise designated in these regulations or warden's orders as a class I or class II offense shall be a class III offense.

(b) The penalty for a class III offense may be any one or any combination of the following, unless prohibited in this subsection:

(1) Restriction to inmate's own cell for not more than three days;

(2) restriction from privileges for not more than 20 days;

(3) extra work without incentive pay for not more than two hours each day for a period not to exceed 10 days;

(4) work without incentive pay, not to exceed five days. This penalty shall not include a fine and shall apply only to ordinary inmate work assignments;

(5) a fine of not more than \$10.00, unless prohibited by paragraph (b)(4);

(6) restitution of at least \$3.00; or

(7) an oral or written reprimand. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended April 20, 1992; amended July 13, 2007.)

44-12-1304. (Authorized by and implementing K.S.A. 1983 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; revoked April 20, 1992.)

44-12-1305. Use of fines. Fines shall be deposited in the inmate benefit fund. (Authorized

by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-12-1306. Use of restitution. (a) When restitution is used in the disciplinary process, the following requirements and limitations shall apply:

(1) The amount of and manner of payment of restitution imposed may be appealed in the same manner and to the same extent as those for any other appeal of sentence in the disciplinary process.

(2) The appropriateness and amount of restitution ordered shall be determined by consideration of the factors set forth in K.A.R. 44-12-1307.

(3) No inmate shall be required to continue payment on any restitution imposed under these regulations while released from incarceration. Upon any subsequent readmission of the inmate to a facility, any restitution owed may be collected. No portion of the inmate's gate money gratuity as authorized by K.S.A. 75-5211, and amendments thereto, shall be used toward the payment of this restitution.

(4) Restitution shall continue to be paid out of money earned by the inmate in the work release program, the private nonprison employment program, or any other gainful employment industries program. Restitution payment shall be limited to a reasonable amount and, if appropriate, shall be made in installments.

(5) The inmate shall be given notice in the disciplinary report or, if necessary, in an amended disciplinary report served upon the inmate no later than 24 hours before the hearing of the amount and basis for seeking restitution. The inmate shall be given an opportunity at the sentencing phase of the hearing to present evidence regarding the appropriate amount of restitution. The hearing officer shall limit the evidence to a reasonable amount and extent that is appropriate to the nature of the administrative hearing, the level of the offense, and the extent of possible impact on the inmate's resources.

(b) If restitution is to be made to an entity, whether or not the entity is a governmental agency or unit, then the money satisfying the order of restitution shall be delivered to that entity. If restitution is paid to an inmate, the money shall be transferred by the clerk from the account of the inmate payer to the account of the inmate payee after the conclusion of the entire disciplinary process, including any appeal. If restitution

is paid to any other person, the hearing officer shall determine how payment is to be made, and the warden or designee shall review the payment arrangements for approval, conferring with the facility business manager if appropriate. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1981; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-12-1307. Fines and restitution, imposition and collection; limits. Fines shall be fairly and appropriately used. Fines shall not be used in a way that disrupts family support payments, tax payments, or court-ordered restitution payments.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1984; amended May 1, 1985; amended April 20, 1992; amended Feb. 15, 2002.)

44-12-1308. Disciplinary segregation; limits. (a) The maximum sentence of disciplinary segregation for all violations arising out of one incident shall not exceed 60 days.

(b) Continuous confinement in disciplinary segregation for more than 30 days shall require the review and approval of the warden. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1985; amended Jan. 3, 1995; amended July 13, 2007.)

Article 13.—DISCIPLINARY PROCEDURE

PROCEDURE GENERALLY

44-13-101. Disciplinary procedure established, general description of system. (a) A disciplinary procedure in accordance with these regulations shall be implemented by the warden of each facility. The term “warden,” as used throughout this article, shall include the warden’s designee.

(b) Prosecution by criminal justice agencies in the community shall be deemed a separate process from this disciplinary procedure, and both prosecution and disciplinary procedures may be conducted on matters relating to the same factual situations.

(c) Subject to the limitations and guidelines set out in these regulations and subject to the control of the hearing officer exercised within the parameters of the law and these regulations, the inmate shall be entitled to the following:

(1) To receive advance written notice of the charge and a fair hearing by an impartial hearing officer;

(2) to be present at the hearing;

(3) to present documentary evidence;

(4) to testify on the inmate’s own behalf;

(5) to have witnesses called to testify on the inmate’s behalf;

(6) to confront and cross-examine witnesses against the inmate; and

(7) to be furnished with staff assistance according to K.A.R. 44-13-408.

(d) The charge may be amended according to the provisions of these regulations.

(e) If an inmate allegedly commits an act covered by criminal law, the case shall be referred to the appropriate law enforcement or prosecutorial agency as provided in K.A.R. 44-13-103.

(f) There shall be three classes of offenses, which shall be processed according to the provisions of these regulations.

(g) The disciplinary hearing process shall be structured as specified in K.A.R. 44-13-403, 44-13-404, and 44-13-405a.

(h) All stages of the disciplinary hearing shall be conducted by a hearing officer appointed by the warden according to K.A.R. 44-13-105.

(i) A complete log of the disciplinary process shall be maintained as specified in K.A.R. 44-13-509.

(j) The disciplinary hearing shall be conducted within a certain time following notice of the charge as established by these regulations. Continuances and recesses of the hearing may be granted. Generally, the inmate shall be permitted to be present at all stages of the hearing, except as provided by these regulations.

(k) Staff assistance shall be permitted only under limited conditions established in K.A.R. 44-13-408.

(l) A summary record shall be made of all stages of the hearing.

(m) In class I and II offense cases, following an administrative review of the record and any needed adjustments of the disposition by the warden, the inmate may appeal the case to the secretary of corrections on the record. In class III offense cases, an appeal may be made to the warden on the record following an initial review of the record by some person within the facility other than the warden. No appeal to the secretary of corrections shall be permitted.

(n) Nothing in these regulations shall prohibit

the assignment or delegation of the disciplinary hearing and review process or any portion of it to the warden of another Kansas state correctional facility if good cause is shown and if justice and fairness will not thereby be infringed. An assignment or delegation shall not be made except by the secretary of corrections or designee, or by the warden with the secretary of corrections' written approval. This restriction shall not prohibit the holding of hearings at a receiving facility following a transfer based on a classification decision in the sending facility where the offense occurred in the sending facility.

(o) This regulation shall summarize the disciplinary procedure and shall not be construed or interpreted as establishing any rights or procedures that are not specifically set forth in article 13.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended, T-85-37, Dec. 19, 1984; amended May 1, 1985; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002.)

44-13-101a. Waiver of rights. (a) Each inmate shall be permitted to voluntarily waive the right to any time limit or process afforded by the disciplinary procedure regulations in this article. The waiver shall be in writing and shall state with specificity the particular time limit or process being waived. The waiver shall be made in the form and manner approved or prescribed by the secretary of corrections. The waiver shall be signed by the inmate and the hearing officer unless the inmate is waiving the right to the disciplinary hearing process by accepting a summary judgment citation as defined in K.A.R. 44-13-201b.

(b) The inmate shall be informed of the nature of the time limit or process being waived and of the impact and consequence of the waiver.

(c) Unless the inmate is waiving the right to the disciplinary hearing process by accepting a summary judgment citation as defined in K.A.R. 44-13-201b, the inmate shall be questioned by the hearing officer before accepting the waiver to determine if it is knowingly and voluntarily made. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1984; amended May 1, 1985; amended April 20, 1992; amended July 13, 2007.)

44-13-102. (Authorized by K.S.A. 1980 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; revoked, T-83-23, Aug. 11, 1982; revoked, T-84-6, May 1, 1983; revoked May 1, 1984.)

44-13-103. Prosecution by outside agency. (a) When an inmate allegedly commits an act covered by criminal law, the case shall be referred to the appropriate law enforcement or prosecutorial agency for consideration for prosecution unless the prosecutor provides a written statement requesting that certain types or classes of crimes not be reported, or requesting that no report be made.

(b) Notification for prosecution by outside agency shall not preclude a disciplinary charge and proceeding by the correctional facility for the rule infraction arising from the same facts. The hearing officer may proceed or continue the case to await the outcome of the prosecution by the law enforcement agency. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended May 1, 1984; amended April 20, 1992.)

44-13-104. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended April 20, 1992; revoked Feb. 15, 2002.)

44-13-105. The disciplinary administrator and hearing officers. (a) A disciplinary administrator shall be appointed by the warden of each facility to manage the disciplinary process for the entire facility. Any suitable employee may be designated by the warden to carry out this task on a continuing basis.

(b) One or more impartial hearing officers shall be appointed by the warden to conduct disciplinary hearings at each department-operated facility.

(1) The minimum qualification for hearing officers shall be satisfactory completion of required training.

(2) A person who is the reporting officer, investigator, or a witness in a case shall not be the hearing officer in that case.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective, T-83-

23, Aug. 11, 1982; effective, T-84-6, May 1, 1983; effective May 1, 1984; amended Feb. 15, 2002.)

44-13-106. Administration of oaths; designation of persons authorized. (a) The warden, a deputy warden, the disciplinary administrator appointed pursuant to K.A.R. 44-13-105, and those persons serving as hearing officers at the facility disciplinary hearings shall be authorized to administer oaths to witnesses in those proceedings.

(b) Oaths shall be administered in a form and a manner that are in accordance with K.S.A. 54-101 et seq., and amendments thereto. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective, T-85-37, Dec. 19, 1984; effective May 1, 1985; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-107 to 44-13-114. Reserved.

44-13-115. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1984; amended May 1, 1987; revoked April 20, 1992.)

44-13-116 to 44-13-200. Reserved.

COMMENCEMENT OF PROCEEDINGS

44-13-201. Disciplinary report and written notice. (a) A disciplinary proceeding shall be commenced upon the making of a charge by a disciplinary report.

(1) The inmate shall be notified in writing by personal service of a copy of the report upon the inmate within 48 hours after the issuance of the disciplinary report, excluding Saturdays, Sundays, and holidays.

(2) The report shall be served upon the inmate by an officer or unit team manager. The report shall not be served upon the inmate by the same person who brought the charge against the inmate.

(3) The officer serving the report shall inform the inmate that the inmate may enter a plea of guilty or no contest to the charge at the time of service of the report.

(A) If the officer serving the report has been appointed as a hearing officer by the warden according to K.A.R. 44-13-105, that officer may immediately, or as soon as possible, accept the inmate's plea of guilty or no contest, conduct a sentencing hearing, and impose sentence by following the procedures established in K.A.R. 44-13-403.

(B) If the officer serving the report has not been

appointed as a hearing officer by the warden according to K.A.R. 44-13-105 or wishes to refer the case to another hearing officer, then the inmate desiring to plead guilty or no contest to the charge at the time of service of the report shall be brought immediately, or as soon as possible, before a hearing officer, who shall accept the inmate's plea of guilty or no contest, conduct a sentencing hearing, and impose sentence by following the procedures established in K.A.R. 44-13-403.

(4) If necessary, the hearing officer may accept the inmate's plea of guilty or no contest immediately, or as soon as possible, after service of the report, but may delay the sentencing hearing and imposition of sentence for not more than six working days.

(5) When the unit team manager serves the report, or at any time before the scheduled hearing, the unit team manager may implement one of the following options:

(A) Offer the inmate diversion of the charge or charges in accordance with K.A.R. 44-13-201a;

(B) offer the inmate summary judgment in accordance with K.A.R. 44-13-201b; or

(C) inform the inmate that the inmate may enter a plea of guilty or no contest to the charge at the time of service of the report and, acting as a hearing officer, accept the inmate's plea of guilty or no contest, conduct a sentencing hearing, and impose sentence by following the procedures established in K.A.R. 44-13-403. If the inmate accepts this option, the unit team manager shall forward to the disciplinary administrator the guilty or no contest plea waiver form and disposition and hearing record.

(b) If the inmate is transferred to another facility before the arrival of the disciplinary report at the receiving facility, service of the report upon the inmate shall be made within 48 hours after arrival of the report, excluding Saturdays, Sundays, and holidays, in the same manner as that specified in subsection (a).

(c) The disciplinary report shall be written within 48 hours of the offense, the discovery of the offense, or the determination following an investigation that the inmate is the suspect in the case and is to be named as defendant.

(1) If an alleged violation is based upon uncertain facts, an appropriate investigation shall be initiated within 24 hours of the time the allegation is made and shall be completed without unreasonable delay. The investigation shall determine

if a disciplinary action should be initiated or continued by determining whether the allegation is soundly based on reasonably reliable facts. The investigator shall be a staff member, and, if practical, shall be a staff member other than the person making the allegation. If an inmate is making the allegation, the officer who is receiving the allegation and is in a position to write the report may also be the investigator.

(2) The investigation report may be adopted by the charging officer both as the charge itself, and as the officer's sworn statement in lieu of testimony in any case, in accordance with the regulations. If necessary, pending completion of the investigation, the inmate may be held in administrative segregation for a certain period according to K.A.R. 44-14-302(b).

(3) The report shall be reviewed and either approved or disapproved by the shift supervisor or unit team manager based on whether or not the report is sound and adequate, and is made in proper manner and form.

(4) The shift supervisor or unit team manager shall assure that all necessary elements of the alleged violation are contained in the written report of the facts of the incident and that the report does not represent an abuse of the disciplinary process. The shift supervisor or unit team manager shall also make or direct appropriate amendments to the report, including use of the summary judgment procedure under K.A.R. 44-13-201b.

(5) If the charge is dismissed or the report is otherwise rejected by the shift supervisor or unit team manager, a written explanation shall be made in the record and filed with the report, with a copy given to the officer. The report shall not be destroyed.

(d) The disciplinary report shall constitute a formal statement of the charge, shall be in a form prescribed by the secretary, and shall include the following:

- (1) The name and number of the inmate;
- (2) the institution;
- (3) the signature and title of the writing officer;
- (4) the date and time of the alleged offense;
- (5) the date and time the report is written;
- (6) the nature of the alleged offense;
- (7) the class, title, and number of the rule or regulation violated, including citation to any underlying statute, regulation, internal management policy and procedure, or published order allegedly violated;
- (8) the specific regulation that is the basis of an

attempt, conspiracy, accessory, solicitation, or liability for the offenses of another under K.A.R. 44-12-1101;

(9) the names of known staff witnesses;

(10) a brief description of the circumstances and facts of the violation if, in cases in which the violation is based upon information supplied by a confidential witness or informant, the identity of the witness or informant is not disclosed, nor is any reference or factual detail likely to reveal the identity of the witness or informant;

(11) any unusual inmate behavior;

(12) the disposition of any physical evidence;

(13) any immediate action taken, including the use of force; and

(14) the factual basis for and the amount of any restitution sought for any injury, damage, or other loss caused by or resulting from the violation charged.

(e) An inmate shall not be charged unless the regulation or law has been made in writing and published.

(f) The officer may orally warn or reprimand the inmate instead of writing a report or otherwise documenting the incident. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended April 20, 1992; amended July 11, 1994; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-201a. Diversion procedure.

(a) In any case involving one or more alleged class I or class II offenses, the charged inmate's unit team manager may initiate, or a member of the inmate's unit team in the inmate's assigned housing unit may request, consideration of diversion of the pending charges from prosecution, in connection with the formation and implementation of an intervention plan intended to address each behavioral issue presented in the incident in question. If a request is made by a unit team member other than the unit team manager, the request shall be submitted in writing and addressed to the unit team manager, who may decline further action or who may proceed further with the request. The unit team manager's decision about the request shall be final and shall not be subject to hearing or appeal under these regulations or to review pursuant to the inmate grievance procedure or any other administrative remedial procedure.

(b) The unit team manager may formulate the intervention plan or may assign the diversion request to the inmate's assigned correctional counselor for review and recommendation as to the nature and components of the intervention plan. The unit team manager shall apply for a continuance of the case pursuant to K.A.R. 44-13-402 if necessary in order to complete consideration and formulation of the intervention plan.

(c) Upon formulation of the intervention plan, the unit team manager shall confer with the reporting officer or supervisor and the inmate. If both parties consent to the diversion, the unit team manager shall present to the inmate for the inmate's execution a written request for continuance of the disciplinary case for the length of time required to carry out the plan, which shall not exceed 180 days, and shall also present the written intervention plan to the inmate and the reporting officer or supervisor. This plan shall be in the form of an agreement to be signed by both parties and the unit team manager. If either party fails to consent, then the case shall proceed for prosecution. If a continuance has been secured by the unit team manager, then the unit team manager shall notify the disciplinary administrator in writing of the failure to agree to diversion.

(d) As a condition of the agreement specified in subsection (c), the inmate shall waive any right or claim to have the disciplinary case heard and determined within ordinary time limits. The inmate shall also agree and acknowledge that the determination as to whether the inmate has successfully completed the plan is that of the unit team manager, whose decision in that regard shall not be subject to hearing or appeal under these regulations or to review under the inmate grievance procedure or any other administrative remedial procedure.

(e) The request for continuance specified in subsection (c) shall then be forwarded to the facility disciplinary administrator, who shall proceed to grant the continuance, duly note the length of the continuance specified in the request on the case continuance log, and further note the diversion of prosecution of the charge or charges under the assigned case number.

(f) If the inmate fails to successfully complete the intervention plan or receives another disciplinary report for any class of offense during the term of the plan, the diversion of the charge or charges from prosecution shall immediately terminate. Upon receipt of written notification of the

termination from the inmate's unit team manager, the disciplinary administrator shall proceed to docket the case for hearing, notify the parties, and process the case according to the ordinary procedures set forth in these regulations.

(g) If the inmate successfully completes the intervention plan, the reporting officer or supervisor or, in that person's absence, the unit team manager shall submit a written request for dismissal of the case to the disciplinary administrator, who shall cause the case to be shown as dismissed in the records of the administrator's office. The existence of the case and its charge or charges shall not be part of the inmate's master file or any other file subject to review by the Kansas parole board or to disclosure to the public. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective July 13, 2007.)

44-13-201b. Summary judgment procedure. (a) In any case involving one or more alleged class II or class III offenses, the reporting officer may offer the inmate the option of resolving the matter through the summary judgment procedure as an alternative to writing a disciplinary report that leads to initiation of the formal disciplinary hearing process.

(b) Officers shall carry with them or have immediate access to summary judgment citation forms.

(c) If an officer observes an inmate in the act of committing one or more offenses designated as eligible for summary judgment procedures that the officer believes require more than an undocumented, on-the-spot verbal reprimand, the officer may file a formal disciplinary report against the inmate or offer the inmate summary judgment by issuing a summary judgment citation. If summary judgment is offered to the inmate by the officer, the offer shall not be withdrawn without the commission of additional alleged disciplinary offenses by the inmate.

(1) The summary judgment citation shall be written, verified pursuant to K.S.A. 53-601 and amendments thereto, and served on the inmate by the reporting officer within 24 hours of the alleged incident, or within 48 hours if directed by the shift supervisor or unit team manager under paragraph (c)(3)(B), and shall include the following:

- (A) The date and time of each alleged offense;
- (B) the date and time the citation is written;

(C) the name and rule number of each alleged offense;

(D) a statement of the facts of the alleged incident, including names of witnesses;

(E) the date and time that the citation is served on the inmate;

(F) the summary judgment sanction; and

(G) the signature of the inmate indicating acceptance or refusal of the summary judgment.

(2) The officer may impose only one of the following summary judgment sanctions regardless of the number of offenses cited:

(A) Restriction from privileges for not more than 10 days;

(B) a fine not to exceed \$10.00;

(C) extra work without incentive pay for not more than two hours each day, not to exceed five days;

(D) work without incentive pay not to exceed five days, which shall apply only to ordinary inmate work assignments; or

(E) restitution of not less than \$3.00 and not more than \$10.00.

(3) The inmate may choose whether to accept the summary judgment or to reject it in favor of the formal disciplinary hearing process. This decision shall be made within one hour of the inmate's receipt of the citation, or it shall be assumed that the inmate refused the summary judgment. The officer may choose to impose a different summary judgment sanction after discussion of the incident with the inmate, and this fact shall be documented on the summary judgment citation if the inmate then accepts the summary judgment.

(A) If the inmate accepts the summary judgment offered, this acceptance shall constitute a waiver of the inmate's right to the benefits of the formal disciplinary hearing process. The waiver of rights established according to K.A.R. 44-13-101a shall be executed by the inmate. Upon the inmate's acceptance of the summary judgment, the sanction shall be immediately imposed, and the shift supervisor or unit team manager shall be notified.

(B) If the inmate refuses the summary judgment offered, the inmate shall receive the applicable hearing process. The summary judgment citation shall be marked and signed by the officer and the inmate to indicate the inmate's refusal. The citation may then be used in lieu of the more formal disciplinary report to initiate the formal disciplinary hearing process. The citation shall

then be submitted to the shift supervisor or unit team manager for review and appropriate disposition, including any amendments that the reviewer may direct, pursuant to K.A.R. 44-13-201(c)(3) and (4). The citation shall subsequently be served upon the inmate in the manner and using procedures that apply to ordinary disciplinary reports.

(C) If an inmate refuses the summary judgment offered, the inmate shall not be charged with a more serious offense or combination of offenses than was alleged in the summary judgment citation.

(D) All evidence shall be confiscated or seized in connection with the issuance of a summary judgment citation, and shall be disposed of in accordance with K.A.R. 44-5-111.

(4) All summary judgment citations accepted by the inmate shall be documented in the inmate's file. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective April 20, 1992; amended July 11, 1994; amended Feb. 15, 2002; amended, T-44-3-11-03, March 11, 2003; amended July 25, 2003; amended July 13, 2007.)

44-13-202. Amendment of the charge.

(a) If, in the judgment of the disciplinary administrator, hearing officer, or warden during administrative review, the charge is incorrect or a language change would change the substance of the charge or adversely affect the defense, the charge shall be amended and notice given to the inmate. After this notice is given, the inmate shall have the same period of time between notice and hearing to prepare a defense as would have been permitted when the charge was originally made.

(b) The same charge shall not be brought twice on the same facts under any circumstance if a factual finding of guilt or innocence has been made. If a case has been dismissed without a factual finding of guilt or innocence, upon administrative review pursuant to K.A.R. 44-13-701 the reviewing authority may either reinstate the charge or amend the charge as deemed appropriate, and remand the case for hearing.

(c) After the hearing officer has begun to hear evidence in the case, the hearing officer may permit amendment at any time before a factual finding of guilt or innocence has been made if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced.

(d) The hearing officer shall ask the inmate which option the inmate chooses:

(1) Continue the case for hearing on a different date to prepare a defense to the additional or different offense resulting from amendment of the original charge or charges; or

(2) waive any time period allowed to prepare to defend against any additional or different offense resulting from amendment of the original charge or charges and hold the hearing on the charges at the time of amendment of the disciplinary charge. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended April 20, 1992; amended July 11, 1994; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-203. State prosecution and disciplinary hearing. (a) If the inmate has been charged, convicted, or acquitted in a criminal court of a charge or for a crime arising from the same facts, the disciplinary hearing may be conducted or continued at the hearing officer's discretion.

(b) Where the inmate has been convicted or acquitted in criminal court for a crime arising from the same facts, the hearing officer may rely on the finding made by the jury or judge in conducting or dismissing the disciplinary hearing.

(c) If the disciplinary hearing is conducted while the criminal court case is pending, and the court later renders a decision different from the decision of the hearing officer, the decision of the hearing officer shall remain unaffected unless upon motion to the hearing officer there is a showing that the hearing officer's decision is based on an obviously erroneous fact which affects the substantial rights of the inmate, in which case the hearing officer shall correct its decision on the record. The hearing officer may not change his or her decision in order to convict an inmate following a conviction by the court if the hearing officer acquitted the inmate before the court made its finding, or otherwise change his or her decision to adversely affect the inmate. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended April 20, 1992.)

44-13-204 to 44-13-300. Reserved.

NATURE OF PROCEEDINGS

44-13-301. (Authorized by and implementing K.S.A. 1983 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-

83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1985; revoked April 20, 1992.)

44-13-302. (Authorized by and implementing K.S.A. 1983 Supp. 75-5210; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1985; revoked April 20, 1992.)

44-13-302a. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective April 20, 1992; revoked Feb. 15, 2002.)

44-13-303. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1986; revoked April 20, 1992.)

44-13-304. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended April 20, 1992; revoked Feb. 15, 2002.)

44-13-305. (Authorized by K.S.A. 1979 Supp. 75-5210; effective May 1, 1980; revoked May 1, 1984.)

44-13-306. Inmate responsibilities. It shall be the responsibility of each inmate being served to read the disciplinary report and any associated documentation, or to notify the serving staff that the inmate is illiterate or otherwise unable to read and understand the documents presented and request that the notice and associated documents be read to the inmate. Within 48 hours of service of the report, the inmate shall complete and submit the authorized form for witnesses to the disciplinary administrator. If one or more witnesses are requested, the inmate shall indicate on the form the testimony expected from each witness. The inmate may use the form to waive the inmate's right to call witnesses. An illiterate inmate shall receive assistance from the inmate's unit team correctional counselor for the purpose of completing the witness form, including any waiver of the right to call witnesses.

This regulation shall be effective on and after

February 15, 2002. (Authorized by and implementing K.S.A. 75-5210 and 75-5251; effective Feb. 15, 2002.)

44-13-307. Administrative review of requests for witnesses; denial of requests; issuance of summons; voluntary nature of witness appearance. (a) The disciplinary administrator or hearing officer assigned to hear the charges shall review any written requests for witnesses submitted by the accused inmate according to K.A.R. 44-13-306.

(b) The disciplinary administrator or hearing officer performing a review of a written request for witnesses may deny the request if, in the judgment of the reviewer, the testimonies proffered on the request form meet any of the following criteria:

- (1) Are clearly irrelevant or immaterial;
- (2) are repetitious of other proffered testimony;

or

(3) are properly excluded for reasons specified in K.A.R. 44-13-405a. The truth of the proffered testimony shall be presumed in making this decision.

(c) Each denial of a request for witnesses shall be documented, including the reason or reasons for the denial, either on the request form or in the disciplinary case record.

(d) If practicable in the judgment of the reviewer, the inmate shall be informed, in writing and in advance of the hearing, of any denials of requested witnesses and of the reason or reasons for the denials. If informing the inmate is determined not to be practicable, the inmate shall be informed of any denials and reasons for any denials by the hearing officer at the beginning of the hearing.

(e) If no reason appears from a review of the written proffer of testimony for denial of the request for witnesses, then the disciplinary administrator shall issue a written summons for the appearance of the witness. The appearance of a witness requested by either the reporting officer or the accused inmate shall be voluntary, and neither the request nor the issuance of summons according to this regulation shall compel an appearance. However, issuance of summons by a hearing officer to an inmate or staff member pursuant to K.A.R. 44-13-403 shall compel an appearance. (Authorized by and implementing K.S.A. 2006

Supp. 75-5210 and K.S.A. 75-5251; effective Feb. 15, 2002; amended July 13, 2007.)

44-13-308 to 44-13-400. Reserved.

HEARINGS GENERALLY

44-13-401. Hearing within certain time; notice to inmate; time and place of hearing.

(a) Except as otherwise provided in these regulations, the administrative hearing by a hearing officer of the facility to determine the inmate's guilt or innocence and impose a penalty in the event of a finding of guilt shall be held not less than 24 hours or more than seven working days after the service of notice of charge on the inmate, subject to authorized continuances.

(b) Each inmate charged with an offense shall be given advance written notice of the time and place of the disciplinary hearing. This notice shall be given not less than 24 hours before the hearing. Notice shall be given by the disciplinary administrator or other responsible person designated by the warden.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended May 1, 1981; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended April 20, 1992; amended Feb. 15, 2002.)

44-13-401a. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210; effective May 1, 1984; amended April 20, 1992; revoked Feb. 15, 2002.)

44-13-402. Continuing the hearing; recesses; time limits; extensions.

(a) The disciplinary administrator or hearing officer may grant one or more continuances or recesses of appropriate and reasonable length upon application of the inmate, reporting officer, the hearing officer, a unit team manager pursuant to K.A.R. 44-13-201a, or department of corrections for cause shown.

(b) The hearing officer may also continue the case for a reasonable period, as necessary, subject to the review of the status of the case every 30 days, if any of the following conditions is met:

(1) The inmate or the employee is unable to appear for medical or psychiatric reasons as certified by the facility or other licensed physician or psychiatrist.

(2) There is a delay to await determination of whether the case will go to trial in a court of law or to await the outcome of a trial.

(3) There is an unavoidable delay to await the return of evidence from an analysis laboratory.

(4) The inmate is transferred to or from a facility for diagnostic evaluation, out to court, or to a mental hospital before hearing.

(5) The inmate is on "escape" status. At the hearing officer's discretion, the case may be dismissed or heard in absentia on the record, unless the inmate has been apprehended and is available at a known location for return to department of corrections custody for the hearing within six months.

(6) The case has been placed upon diversion status pursuant to K.A.R. 44-13-201a.

(c) To obtain a continuance in advance of the hearing, the requesting party shall make the request to the hearing officer or to the disciplinary administrator. If there is a hearing officer appointed for the case, the request shall be forwarded to that officer.

(1) Reasonable extensions may be obtained with the prior approval of the secretary of corrections or the secretary's designee, in the case of a substantial disruption of order in the facility.

(2) If an inmate has been transferred to another facility, it shall be the responsibility of the warden of the sending facility to grant an extension of the disciplinary case, which shall not exceed 10 working days.

(3) At the discretion of the hearing officer, recesses of appropriate and reasonable length may be declared. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1988; amended April 20, 1992; amended July 11, 1994; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-403. Conducting the disciplinary hearing. (a) The disciplinary hearing shall consist of the following procedures:

(1) The hearing officer shall initially inform the inmate of the charges and take the inmate's plea.

(2) Secondly, the hearing officer shall determine guilt or innocence.

(3) Finally, if guilt has been established, the hearing officer shall make a disposition, including the determination and imposition of sentence.

(b) Initially, the hearing officer shall read the

disciplinary report to the inmate, including the date, nature of the offense, the reporting officer's name, and a synopsis of the observation. The officer shall ensure that the inmate understands the charges and that a copy of the disciplinary report was received by the inmate. The officer shall also explain the possible penalties. If the hearing officer finds that the inmate is incapable of self-representation, the hearing officer shall continue the hearing as provided in K.A.R. 44-13-402(b)(1), until the inmate regains the ability for self-representation. For purposes of this subsection, "incapable of self-representation" shall mean that the inmate, due to physical or mental disability, whether temporary or permanent, lacks the present ability to assist in the inmate's representation in the case. This term shall not include mere illiteracy.

(c) A staff assistant shall be permitted to be with the inmate at all stages of the disciplinary hearing only as provided in K.A.R. 44-13-408. The hearing officer shall ensure that the inmate has staff assistance when required by K.A.R. 44-13-408.

(d) If the inmate is disruptive or refuses to be present, the hearing may proceed in absentia, and the record shall indicate the reason or reasons for the inmate's absence. A staff assistant shall then be assigned and may ask questions of witnesses, present the argument, or otherwise aid the defendant inmate, at the discretion of the staff assistant and subject to rulings of the hearing officer as otherwise provided in this regulation.

(e) The hearing officer shall entertain and determine any motion for dismissal or objections to holding the hearing, as well as any motions for additional witnesses beyond those identified already in the witness list previously submitted. Additionally, the hearing officer shall advise the inmate of the inmate's rights to proceed to a determination of guilt or innocence, and if necessary, the application of penalties, and to receive staff assistance in certain cases, according to K.A.R. 44-13-408, and of other procedural due process rights.

(f) The hearing officer shall then ask the inmate to plead guilty, not guilty, or no contest. The plea shall be entered if the presiding officer is assured that the plea is made knowledgeably and without threat or promise of reward to the inmate. If the inmate refuses to plead, the hearing officer shall enter a plea of not guilty. A plea of no contest shall be treated in the same manner as that for a plea of guilty. If the inmate pleads guilty or no contest,

the inmate shall waive the right to a determination of guilt or innocence, but shall reserve the right to participate in the penalty phase of the hearing to the extent of offering a brief argument in mitigation of the penalty to be imposed. If the inmate pleads guilty or no contest, the inmate shall not be allowed to introduce evidence regarding the inmate's guilt or innocence of the charge or charges.

(g) The hearing officer shall, upon a plea of guilty or no contest, make a finding of guilt and conduct a sentencing hearing, and may impose a sentence.

(h) If the hearing officer finds that the case shall be dismissed, the officer may dismiss the charge on the officer's own motion or on motion of either party. The hearing officer shall give a brief explanation on the record and provide a copy of the explanation to the reporting officer.

(i) Only the relevant facts shall be employed in any determination of guilt or innocence. In the penalty phase, the inmate's entire facility record and other relevant facts, observations, and opinions may be considered.

(j) The hearing officer shall rule on all matters of evidence. Strict rules of evidence, as used in a court of law, shall not be required, but the hearing officer shall exercise diligence to admit reliable and relevant evidence and to refuse to admit irrelevant or unreliable evidence.

(k) The hearing officer shall rule on all matters of assistance for the accused inmate in accordance with these regulations. If the accused inmate is furnished with staff assistance according to K.A.R. 44-13-408, the staff assistant shall be permitted to fully assist the accused and shall be permitted to question witnesses and present arguments on behalf of the accused inmate, except as otherwise provided by these regulations.

(l)(1) The disciplinary process shall, to the extent possible, discover the truth regarding charges against the inmate. For this purpose, the hearing officer shall be authorized to call and to interrogate any witness, and each inmate, staff member, volunteer, or contract employee called as a witness by the hearing officer shall be compelled to appear. The hearing officer may bring out the facts by direct or cross-examination but shall not act as prosecutor on behalf of the facility or charging officer against the accused inmate, or on behalf of the inmate. Testimony and evidence shall not be received by the hearing officer or introduced outside the presence of the accused in-

mate, except that the accused inmate shall not be present when the hearing officer reviews any facility security videotape evidence. An inmate shall not be required to be present at the disciplinary hearing as provided in subsections (d), (e), and (m) and K.A.R. 44-13-402(b)(5), and as otherwise provided in these regulations.

(2) The hearing shall proceed as follows:

(A) The prosecution shall present its evidence, and the defense shall be permitted to cross-examine, except as otherwise provided by these regulations.

(B) The defense shall present its evidence, and the prosecution shall be permitted to cross-examine.

(C) The prosecution may make a closing argument. The defense may make a closing argument, and then the prosecution may make a short rebuttal.

(m)(1) If the hearing officer determines that the testimony of any inmate will subject that inmate to possible retaliation for having testified, the hearing officer may perform either of the following:

(A) Receive the testimony in confidence without confrontation or cross-examination by the accused inmate, and the witness may be sequestered; or

(B) receive testimony from an investigator who interviewed an inmate informant and relied on the confidential information provided.

(2) The testimony of the inmate witness given under oath shall be examined and tested by the hearing officer. The hearing officer shall closely question the testifying inmate to determine the veracity and weight of the testimony offered. The hearing officer shall complete a credibility assessment form, which shall be available for confidential review by the warden and secretary of corrections.

(3) If the informant inmate does not testify, the hearing officer may establish the reliability of the information provided to the testifying investigators by any of the following:

(A) The testimony of the investigator regarding the reliability of the informant in the past, which shall include specific examples of past instances of reliability;

(B) the testimony of the investigator regarding the truthfulness of details that the investigator has been able to verify through investigation;

(C) corroborating testimony;

(D) a statement on the record by the hearing

officer that the hearing officer has firsthand knowledge of the informant and considers the informant to be reliable due to the informant's past record of reliability, which shall include specific examples of past instances of reliability; or

(E) in camera review of material documenting the investigator's assessment of the credibility of the informant.

(4) The accused shall be apprised of the general nature of the confidential testimony, omitting those details that would tend to identify the inmate who gave the confidential testimony or provided confidential information to the testifying investigator. The identity of any confidential witness or of any inmate informant shall not be disclosed to the accused, to any other inmate, or to any staff not required to complete the process. The staff assistant shall be permitted to be present when the board receives testimony from the confidential witness, or investigator, and the staff assistant may ask questions. The inmate's staff assistant shall not disclose the identity of the confidential witness or inmate informant to the accused, to any other inmate, or to any staff not required to complete the hearing process. The testimony shall be recorded for confidential review by the warden and, on appeal, by the secretary of corrections.

(n) The hearing officer may require the accused to explain briefly what the purpose and nature of the testimony of a witness will be. The request to call the witness may be denied or the testimony reasonably and fairly restricted if the testimony meets any of the following criteria:

- (1) Relates to something already disposed of;
- (2) is clearly irrelevant or immaterial;
- (3) is repetitious of other testimony; or
- (4) is properly excluded for reasons specified in

K.A.R. 44-13-405a.

The truth of the testimony shall be presumed in making this decision.

(o) A witness request made at the hearing and not previously submitted shall not be permitted unless exceptional circumstances outside the control of the inmate exist and the testimony would most likely affect the outcome of the hearing. The hearing officer shall inform the inmate of any witness deemed waived by the failure to make a timely request.

(p) The hearing officer, in deciding whether or not the inmate is guilty, shall consider only the relevant testimony and report. The accused inmate's correctional and supervision record shall not be considered in determining guilt or inno-

cence. The decision in the hearing shall be based solely on evidence presented as part of the hearing.

(q) Confrontation and cross-examination may be denied by the hearing officer if deemed necessary in any case except class I cases. In class I cases, confrontation and cross-examination may be limited or denied if necessary to protect the safety of an accuser, informant, or witness or if necessary to maintain facility safety, security, and control. Unless there is a security risk endangering some person, the explanation shall be in the record. If there is such a security risk, a written explanation of the reason shall be sent to the warden with a copy to the secretary for confidential review. However, an inmate held in administrative or disciplinary segregation whose hearing is conducted by telephone, as provided by K.A.R. 44-13-404(e), shall not be permitted to confront any witnesses against the inmate, including the reporting officer.

(r) After the conclusion of the presentation of evidence regarding guilt or innocence or disposition, if the hearing officer needs the charging officer, the accused inmate, or both present to provide further information to clarify facts, both parties shall be present to hear what the other is saying unless exempt under subsection (m) or (p) above. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended April 20, 1992; amended July 11, 1994; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-404. Presence of inmate and presence of charging officer at disciplinary hearings; officer statements in lieu of testimony.

(a) The inmate shall be present at all stages of the disciplinary hearing and disposition except as otherwise provided by these regulations or by law. Subject to the provisions of subsection (e), if the inmate is not present, then a staff assistant shall be assigned in accordance with K.A.R. 44-13-403 and 44-13-408.

(b)(1) In class I cases, the charging officer shall be present in person or by telephone, as determined by the hearing officer, for direct examination and cross-examination, unless excused by the hearing officer or unless the inmate has been transferred to another facility. The hearing officer

may excuse the charging officer only if any of the following is determined:

(A) Facility safety or correctional goals would be jeopardized.

(B) The charging officer is absent from duty due to activation for military service.

(C) The charging officer has been separated from employment with the facility for reasons unconnected to investigation of the charges or issuance of the disciplinary report.

(D) The charging officer is otherwise unlikely to be available for testimony within a reasonable time period as determined by the hearing officer, and a continuance pursuant to K.A.R. 44-13-402 either is not applicable or is not appropriate in the judgment of the hearing officer.

Facility safety or correctional goals shall not include considerations of mere convenience. If the officer is not present, the officer's report and statement shall be made to the hearing officer in writing under oath. Copies of the report shall be provided to the inmate, and it shall be read aloud at the hearing unless confidentiality is required to protect an inmate accuser, informant, or witness. If the charging officer is excused from appearance, the hearing officer shall document the ground for the excuse and shall likewise document the facts underlying the ground relied upon in the case record.

(2) If an inmate has been transferred to another facility after a disciplinary report was written in a class I case, the testimony of the charging officer and other witnesses regarding that report may be taken by telephone at the discretion of the hearing officer. Except as provided in K.A.R. 44-13-403(m) and (q), any testimony taken by telephone shall be taken in a manner that can be heard by all those present at the hearing, and shall be subject to the same procedures as though the witness were personally present at the hearing.

(c)(1) In class II and III cases, the officer's attendance shall not be required unless deemed necessary by the hearing officer. The officer's report and statement shall be submitted to the hearing officer in writing under oath. It shall be read aloud at the hearing, and a copy shall be given to the inmate unless confidentiality is required to protect an inmate accuser, informant, or witness according to K.A.R. 44-13-403(m). If such confidentiality is required, but it is possible to protect the inmate accuser, informant, or witness by editing out certain portions of the report and statement, then those portions shall be edited and the

inmate provided with a copy. The hearing officer may contact the officer, by telephone or radio, to ask questions or clarify the facts while the hearing is being conducted or while the matter is being considered for decision.

(2) In all class II and III cases, if the charging officer requests, the hearing officer shall allow the charging officer to be present. In such a case, the officer shall be present throughout and shall be subject to direct examination, confrontation, and cross-examination unless restricted by the hearing officer according to these regulations.

(d) (1) The officer's statement under oath shall consist of the officer's rendition of all the facts of the case resulting from the charging officer's complete fact investigation. To the best of the officer's ability, it shall show all relevant and material facts that might be used to support both the facility's case against the inmate and the inmate's defense. If the officer is uncertain of a fact, the officer shall state that with respect to the fact. The charging officer may either adopt or defer under oath to any official neutral fact investigation report that might be conducted by another person or may submit the charging officer's own statement in addition to the investigation report.

(2) Confidential inmate testimony may be deleted from the statement in lieu of testimony and reported separately. The hearing officer shall receive any confidential inmate testimony in accordance with K.A.R. 44-13-403.

(e) Hearings for inmates detained or held in administrative or disciplinary segregation status may be conducted by telephone, with the inmate remaining in the inmate's cell and outside the immediate physical presence of the hearing officer and any witnesses, including the reporting officer, at the discretion of the hearing officer. Except as provided in K.A.R. 44-13-403(m) and (q), any testimony taken by telephone shall be taken in a manner that allows the testimony to be heard by all those present at the hearing. The testimony taken by telephone shall be subject to the procedures governing the testimony of any witness personally present at a hearing. A staff assistant shall not be required to be appointed to render assistance to the inmate unless at least one of the circumstances set forth in K.A.R. 44-13-403 or 44-13-408 is present. The inmate shall be permitted to submit written motions, exhibits, or affidavits on the inmate's behalf to the hearing officer to the extent and under the circumstances applicable to documentary presentations under these regula-

tions. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-1, Jan. 5, 1983; amended May 1, 1984; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-405. (Authorized by and implementing K.S.A. 1982 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; revoked April 20, 1992.)

44-13-405a. Calling witnesses. (a) In determining whether to allow the inmate to call a witness from the facility population or from among facility employees, the hearing officer shall balance the inmate's interest in avoiding loss of good time and assessment of a fine or placement in disciplinary segregation against the needs of the facility. These needs of the facility shall include the following:

- (1) The need to keep the hearing within reasonable time limits;
- (2) the need to prevent the creation of a risk of retaliation and reprisal;
- (3) the need to prevent the undermining of authority;
- (4) the need to limit, to a reasonable level, access to other inmates for the purpose of collecting statements or compiling documentary evidence;
- (5) the need to prevent disruption;
- (6) the need to administer swift punishment;
- (7) the need to avoid irrelevant, immaterial, or unnecessary testimony and evidence;
- (8) the need to reduce or prevent security hazards that could be presented in individual cases;
- (9) the need to use the disciplinary process as a rehabilitative tool to modify inmate behavior;
- (10) the need to prevent the creation of undue risk to personal or facility safety;
- (11) the need to reduce the chances of seriously inflaming tension, frustration, resentment, and antagonism in the relationship between inmates and facility personnel;
- (12) the need to correct the behavior of inmates and develop in them a value system in order to foster their eventual return to the community; and
- (13) the need for the prompt, efficient, and effective resolution of the disciplinary case with accurate and complete fact-finding consistent with the level of process required by law for facility disciplinary cases.

(b) The hearing officer shall have broad discretion in permitting or denying the witness request. In exercising the discretion, the hearing officer shall balance the inmate's request and wishes against the needs of the facility. The goal of the hearing officer shall be to conduct the fact-finding process in a manner leading to the discovery of the truth.

(c) The hearing officer shall neither abuse the discretion entrusted to that officer nor interfere with the level of process that is reasonably necessary to find the truth.

(d) With the charged inmate's consent, the hearing officer may admit the affidavit of a non-party witness in lieu of an appearance by the witness. If a witness is denied or cannot attend in a timely manner, the hearing officer may also admit the affidavit of this witness.

(e) If a request to call a witness is denied, a written explanation shall be made on the record unless it would endanger any person. In this case, a written explanation shall be made to the warden with a copy, on appeal, to the secretary of corrections for confidential review. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1984; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-406. Disposition. (a) The disposition shall be rendered by the hearing officer in an official session with the inmate present unless otherwise provided by law or regulation. The disposition shall be made without unreasonable delay following the hearing, preferably at the conclusion of the hearing.

(b) The disciplinary hearing officer shall sentence the inmate by selecting an appropriate disposition, or appropriate combination of dispositions, from the following options:

(1) Impose a penalty or penalties in accordance with the applicable penalty regulation for that class of offense;

(2) In the instance of two or more offenses, including imposition of previously suspended sentences, in which the penalty has a time component, order whether the sentences are to be served concurrently or consecutively. If the hearing officer makes no specific order in this regard, the sentences shall be computed on a concurrent basis;

(3) impose previously suspended sentences; or

(4) suspend all or part of the sentence imposed

for a period of not less than 90 and not more than 180 days.

(c) The hearing officer shall make a recommendation regarding disposition of evidence. The warden shall determine final disposition of the evidence, in accordance with K.A.R. 44-5-111, in the warden's administrative review of the disciplinary report pursuant to K.A.R. 44-13-701.

(d) Upon request, the reporting staff person may be notified of the disposition. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended, T-86-4, March 22, 1985; amended May 1, 1986; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-407. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; revoked April 20, 1992.)

44-13-408. Assistance from staff. (a) If the hearing officer finds that at least one of the following conditions is met, the hearing officer shall appoint a staff member from an approved list to act as staff assistant to aid the inmate at the disciplinary hearing and to question relevant witnesses:

(1) The inmate is incapable of self-representation due to physical or mental disability, whether temporary or permanent.

(2) The inmate is illiterate in the English language.

(3) The charge is too complex for the inmate to readily comprehend or defend against.

(4) Testimony or other evidence will be given, either directly or indirectly, by a confidential inmate informant or witness.

(5) The inmate either refuses to attend or has been removed from the hearing.

(6) Any other circumstance exists that, in the judgment of the hearing officer, substantially impairs the inmate's ability to participate meaningfully in the inmate's defense.

(b) A list of staff members to aid the inmate as staff assistants shall be made available to the hearing officer by the warden. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1,

1984; amended May 1, 1986; amended April 20, 1992; amended Jan. 3, 1995; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-409. Standard of proof. No finding of guilty shall be made in a disciplinary proceeding unless the institution or facility has produced evidence and testimony sufficient to show guilt of the inmate by a preponderance of the evidence. "Preponderance of the evidence" shall be that standard of proof by which a factual proposition is shown to be more likely true than not.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended Feb. 15, 2002.)

44-13-410 to 44-13-500. Reserved.

REPORTS AND RECORDS

44-13-501. Preservation of all reports. No disciplinary reports or summary judgment citations shall be destroyed for any reason. If written in error or incorrectly written, the report or citation with the case number shall be marked "void" and placed in the disciplinary chronological file at the facility. If the charge was dismissed or a finding of not guilty was made by the disciplinary hearing officer, then the report shall be marked accordingly and placed in the disciplinary chronological file at the facility.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1984; amended April 20, 1992; amended Feb. 15, 2002.)

44-13-502. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980; revoked April 20, 1992.)

44-13-502a. Hearing record. A complete written record shall be made of the disciplinary hearing by the hearing officer who conducted the hearing. The written record shall include the following information:

(a) A summary of the disciplinary hearing showing compliance with the provisions of K.A.R. 44-13-403, K.A.R. 44-13-404, and K.A.R. 44-13-405a;

(b) a summary of compliance with the provisions of K.A.R. 44-13-101a and K.A.R. 44-13-403 if the inmate pleads guilty or no contest, including attachment of the required waiver form and acceptance of the plea by the hearing officer;

(c) a complete summary of all the evidence and arguments relied on to find the inmate guilty of the charge at the conclusion of the hearing, including the following:

(1) A summary of the testimony or sworn statement of the reporting officer, subject to applicable provisions of K.A.R. 44-13-403;

(2) a summary of the testimony or sworn statements of all other witnesses;

(3) any investigative reports;

(4) a list of all physical evidence;

(5) a list of any witnesses whose testimony was requested and denied and the reasons for that denial;

(6) the reasons for the denial of confrontation and cross-examination of any witness by the inmate; and

(7) the reasons for the denial of any request for assistance by the inmate at any stage of the hearing; and

(d) the disposition of the case provided for in K.A.R. 44-13-406, including a summary of the evidence and arguments heard and the reasons for the penalties imposed during the penalty phase of the hearing.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective April 20, 1992; amended Feb. 15, 2002.)

44-13-503. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; revoked April 20, 1992.)

44-13-504. (Authorized by K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1984; amended May 1, 1986; revoked April 20, 1992.)

44-13-505. Copy to the inmate. No charge shall be made for the first single copy of the disciplinary case record provided to an inmate. (Authorized by K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980.)

44-13-506. Preparation of the record in 10 working days. The record of the disciplinary hearing shall be caused by the warden or designee to be prepared within 10 working days after the rendering of the disposition by the hearing officer, unless extenuating circumstances arise. If such circumstances arise, the record shall be prepared as soon as possible, and the reason for the delay shall be attached in writing and delivered to the

inmate upon completion of administrative review by the warden.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-13-507. Docket. (a) A docket of disciplinary cases shall be maintained, showing the following:

(1) The case number;

(2) the inmate's name;

(3) the inmate's number;

(4) the cell house;

(5) the offense and its classification; and

(6) the name and title of the reporting officer.

Space shall be left on each line on the docket to enter the plea of the inmate, the findings of the hearing officer, and the sentence imposed.

(b) A copy of this docket shall be maintained in the facility.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-13-508. Disciplinary reports in file. The case disposition report and disciplinary report shall be placed in the inmate's file if there is a finding of guilty. No reference to the case shall be made in the inmate's file if the inmate is not found to be guilty or if the case is dismissed.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended May 1, 1984; amended Feb. 15, 2002.)

44-13-509. Disciplinary case log. The disciplinary administrator shall keep a continuous log of all disciplinary reports. The reports shall be numbered and recorded. If any disciplinary report is voided, dismissed, or otherwise terminated, the log and the report shall reflect that fact. No numbers or entries shall be altered, nor any report destroyed.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1984; amended Feb. 15, 2002.)

44-13-510 to 44-13-600. Reserved.

SENTENCES

44-13-601. Serving sentence. Each inmate shall begin serving the sentence immediately upon imposition of sentence by the hearing officer, unless the warden or designee determines that space in the disciplinary segregation area is not immediately available or that immediate placement of the inmate in segregation is not otherwise feasible. If either determination is made, the sentence shall be served when the space is available or when placement of the inmate in segregation becomes feasible.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002.)

44-13-602. Time not credited for administrative segregation. If the inmate is held in administrative segregation before the disciplinary hearing for some administrative reason, other than merely to await the disciplinary hearing or for investigation of the offense, then that time spent in administrative segregation shall not be credited against the service of sentence in disciplinary segregation. However, any time during which the inmate is held pending the hearing, which is solely for the purpose of awaiting the disciplinary hearing or awaiting completion of the investigation, shall be credited and subtracted from the inmate's disciplinary segregation sentence, if such a sentence is rendered on the charge. (Authorized by and implementing K.S.A. 1983 Supp. 75-5210; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984.)

44-13-603. Absence from facility. (a) If the inmate is sentenced to disciplinary segregation, restriction to cell, or restriction from privileges and if the inmate is then transferred out to court or to a mental hospital before commencing or completing the sentence, that time spent outside the facility shall not be credited against the service of the sentence. Upon return to the facility, the inmate shall serve the remainder of the sentence, unless the warden determines that the best interests of the inmate or facility warrant that the sentence be suspended.

(b) If the inmate is paroled, conditionally released, or released on postrelease supervision before completion of serving the sentence, the inmate may be required to complete serving the sentence upon the inmate's subsequent return to a facility. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1986; amended April 20, 1992; amended July 11, 1994; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-604 to 44-13-609. Reserved.

44-13-610. Collection of fines. (a) Upon disposition of the case, a fine may be collected immediately, without further hearing process, from the inmate's trust account. The fine shall be collected only on written order of the disciplinary administrator.

(b) The fine shall be taken from any money that the inmate has credited to the trust account administered by the department of corrections or the contract facility. The fine shall not be deducted or taken from the gratuity, travel, or clothing allowance provided to the inmate upon release.

(c) No inmate, while released from incarceration, shall be required to continue payment on any fine imposed under these regulations. Upon any subsequent admission, the fine may be collected.

(d) If the inmate is transferred to another department of corrections or contract facility before collection, collection may be made by the receiving facility on order of the warden of the sending facility, as approved and confirmed by the warden of the receiving facility. The proceeds of the fine shall be deposited to the inmate benefit fund at the facility where the collection is made. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1984; amended May 1, 1985; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-611 to 44-13-700. Reserved.

APPEALS

44-13-701. Administrative review. (a) In class I and II offense cases, within seven working days after preparation of the record, there shall be a review of the case, without the presentation of further arguments from either side, regarding compliance with the disciplinary procedure. One or more of the following actions may be performed by the warden:

- (1) Approve the decision;
- (2) reinstate a charge that has been dismissed without a factual finding of guilt or innocence and remand the disciplinary case to the disciplinary administrator;
- (3) amend the charge in accordance with the provisions of K.A.R. 44-13-202 and remand to the disciplinary administrator;
- (4) disapprove the decision and dismiss the case;
- (5) reduce the penalty;
- (6) suspend all or part of a sentence for a period of at least 90 but not more than 180 days;
- (7) remand the case to the disciplinary administrator and order a new hearing;
- (8) remand the case to the disciplinary administrator for clarification of the record, and return the case to the warden for further consideration; or
- (9) reduce the disciplinary report to a summary judgment and impose one of the following:
 - (A) Restriction from privileges for not more than 10 days;
 - (B) a fine not to exceed \$10.00;
 - (C) extra work without incentive pay for not more than two hours each day, not to exceed five days;
 - (D) work without incentive pay, not to exceed five days. This penalty shall not include a fine and shall apply only to ordinary inmate work assignments; or
 - (E) restitution of not less than \$3.00 and not more than \$20.00.
- (b) Disposition of personal property that has been found to be the subject of a violation of one or more disciplinary regulations shall be provided for by the warden in accordance with K.A.R. 44-5-111 if the property is the subject matter of the offense.
- (c) The inmate shall be notified by the warden of the results of the review by way of service of a copy of the disciplinary case record, without unnecessary delay, but in no case later than seven working days after review of the record. The date of review shall not be counted.
- (d) Any mistake of law or other clear error may be corrected by the warden, at any time before a decision is made by the secretary in any ensuing appeal by the inmate, with the appeal permitted to continue as to any other point still unresolved by the warden's action as required by K.A.R. 44-13-703.
- (e) In class III offense cases that do not include

class I or class II offenses, if possible, the reviewer shall not be the warden. An impartial employee of suitable rank and experience shall be designated by the warden to perform the review. A person who was the hearing officer shall not act as reviewing authority, nor shall the reviewer be any person involved in the offense as witness or reporting officer. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-702. Appeal on the record to the warden of the facility in class III offense cases. (a) In class III offense cases, the inmate shall have a right of appeal to the warden of the facility, and shall not have a right of appeal to the secretary of corrections.

(b) The procedure for appeal to the warden of the facility shall be the same as that for appeal to the secretary of corrections in class I and II offense cases.

(c) The same time to answer the appeal shall be provided to the warden as that provided for the secretary of corrections in class I and II offense cases.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended April 20, 1992; amended Feb. 15, 2002.)

44-13-703. Appeal on the record to secretary of corrections in class I and II offense cases only. (a) In class I and II offense cases, the inmate shall have the right to appeal on the record to the secretary of corrections from a final decision made by the disciplinary hearing officer, after review of the decision by the warden. If a class III offense is included among class I or II offenses, the class III offense shall be subject to review by the secretary of corrections. The inmate shall be notified of the right of appeal before or immediately following the warden's review.

(b) The inmate may, on forms provided by the unit team, prepare the inmate's own appeal. The unit team shall ensure that all data necessary to identify and properly log the appeal is provided and forwarded to the disciplinary administrator.

(c) The inmate shall submit the appeal within

15 days of the date of receiving the inmate's copy of the final action.

(d) If the inmate pleads guilty or no contest at the hearing, an appeal of the penalty imposed may be brought, but no appeal of the finding of guilt shall be permitted unless the inmate alleges and shows any of the following:

(1) The inmate was under duress at the time of the plea.

(2) Fraud or substantial error was involved in the inmate's plea of guilty or no contest.

(3) The inmate was not advised of the nature of the hearing and the rights that the inmate would waive by that plea.

(e) The facility's legal counsel may be asked by the secretary to prepare and submit a responsive argument. The responsive argument shall be submitted to the secretary within five calendar days of receipt of the request. The secretary's request for a responsive argument shall not extend the time limits for the secretary's review of the inmate's disciplinary appeal as established in K.A.R. 44-13-704.

(f) Any mistake of law or other clear error may be corrected by the warden at any time before a decision is made by the secretary in any ensuing appeal by the inmate, with the appeal permitted to continue as to any other point still unresolved by the warden's action, as required by K.A.R. 44-13-701. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210; effective May 1, 1980; amended May 1, 1985; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-704. Secretary of corrections' final review on appeal. (a) Within 15 working days after an appeal is received, all cases appealed to the secretary shall be reviewed by the secretary or designee. Any of the following actions may be taken by the secretary or designee:

(1) Approve the decision;

(2) reinstate a charge that has been dismissed without a factual finding of guilt or innocence and remand the disciplinary case to the disciplinary administrator for a new hearing;

(3) amend the charge in accordance with K.A.R. 44-13-202 and remand the disciplinary case to the disciplinary administrator for a new hearing;

(4) disapprove the decision and dismiss the case;

(5) reduce the penalty;

(6) suspend all or part of a sentence for at least 90 and not more than 180 days;

(7) remand the case to the disciplinary administrator and order a new hearing;

(8) remand the case to the disciplinary administrator for clarification of the record and return the case to the secretary for further consideration;

(9) reduce the disciplinary report to a summary judgment and impose one of the following:

(A) Restriction from privileges for not more than 10 days;

(B) a fine not to exceed \$10.00;

(C) extra work without incentive pay for not more than two hours each day, not to exceed five days;

(D) work without incentive pay, not to exceed five days. This penalty shall not include a fine and shall apply only to ordinary inmate work assignments; or

(E) restitution of at least \$3.00 and not more than \$20.00; or

(10) remand the case to the disciplinary administrator with any instructions necessary to ensure compliance with the disciplinary procedure and rules of conduct.

The date of receipt shall not be counted. The secretary's decision shall be final. A copy of the written appeal decision shall be given to the inmate within 15 working days following the secretary's decision. If the appeal is denied, the reason for that decision shall be included in the written appeal decision.

(b) The secretary's review shall determine the following:

(1) Whether there was substantial compliance with departmental and facility standards and procedures;

(2) whether the hearing officer's decision was based on some evidence; and

(3) whether, under the circumstances, the penalty imposed was appropriate and proportionate to the offense. (Authorized by and implementing K.S.A. 2006 Supp. 75-5210; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1988; amended April 20, 1992; amended Jan. 3, 1995; amended Feb. 15, 2002; amended July 13, 2007.)

44-13-705. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1990 Supp. 75-5210;

effective May 1, 1980; amended April 20, 1992; revoked Feb. 15, 2002.)

44-13-706. Administrative review board to review and make recommendations. The administrative segregation review board established under the applicable internal management policy and procedure of the secretary may review the inmates held in disciplinary segregation. This board may, at any time, recommend to the warden or designee that the disciplinary segregation sentence of an inmate be modified to suspend the remaining segregation time based on a finding of the administrative disciplinary segregation review board that the inmate has maintained exceptionally good behavior while in segregation. The remaining segregation time of the inmate's sentence may be suspended by the warden or designee, acting on the recommendation of the administrative segregation review board.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended April 20, 1992; amended Feb. 15, 2002.)

44-13-707. Harmless error; plain error. None of the following types of errors shall be grounds for granting a new hearing, for setting aside a finding, or for vacating, modifying or otherwise disturbing a disposition or order, unless refusal to take that action appears to the hearing officer or the reviewing authority inconsistent with substantial justice: (a) An error in either the admission or exclusion of evidence;

(b) an error or defect in any ruling or order;

(c) an error in anything done or omitted by the hearing officer or by any of the facility officials in processing the disciplinary case; or

(d) an error by the inmate in processing the inmate's defense of the case.

Throughout the disciplinary process, the hearing officer or the reviewing authority shall disregard any error or defect in the proceeding that does not affect the substantial rights of the inmate or the facility.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective, T-83-23, Aug. 11, 1982; effective, T-84-6, May 1, 1983; effective May 1, 1984; amended April 20, 1992; amended Feb. 15, 2002.)

Article 14.—ADMINISTRATIVE AND DISCIPLINARY SEGREGATION

SEGREGATION GENERALLY

44-14-101. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5210, 75-5251, 75-7552; effective May 1, 1980; amended May 1, 1984; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-102. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5210, 75-5251, 75-7552; effective May 1, 1980; amended May 1, 1984; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-103 to 44-14-200. Reserved.

DISCIPLINARY SEGREGATION

44-14-201. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5251, 75-5252; effective May 1, 1980; amended May 1, 1981; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-202. This revocation shall be effective on and after February 15, 2002. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5252, 75-5252(c); effective May 1, 1980; revoked Feb. 15, 2002.)

44-14-203 to 44-14-300. Reserved.

ADMINISTRATIVE SEGREGATION

44-14-301. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5210, 75-5251, 75-5252; effective May 1, 1980; amended May 1, 1981; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-302. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1993 Supp. 75-5210, 75-5251, 75-5252; effective May 1, 1980; amended May 1, 1981; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended Dec. 6, 1993; amended July 11, 1994; revoked Feb. 15, 2002.)

44-14-303. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5210,

75-5251, 75-5252; effective May 1, 1980; amended May 1, 1984; amended May 1, 1985; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-304. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5252; effective May 1, 1980; amended May 1, 1984; revoked Feb. 15, 2002.)

44-14-305. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5210, 75-5251, and 75-5252; effective May 1, 1980; amended May 1, 1984; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-305a. (Authorized by and implementing K.S.A. 75-5210, 75-5251, 75-5252; effective May 1, 1984; amended May 1, 1986; revoked Dec. 6, 1993.)

44-14-306. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5251, 75-5252; effective May 1, 1980; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-307. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5251, 75-5252; effective May 1, 1980; amended May 1, 1987; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-308. This revocation shall be effective on and after February 15, 2002. (Authorized by K.S.A. 75-5251, 75-5252; effective May 1, 1980; amended May 1, 1986; revoked Feb. 15, 2002.)

44-14-309. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5251, 75-5252; effective May 1, 1980; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-310. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5210, 75-5251, 75-5252; effective May 1, 1980; amended, T-83-23, Aug. 11, 1982; amended, T-84-6, May 1, 1983; amended May 1, 1984; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-311. This revocation shall be effective on and after February 15, 2002. (Authorized

by and implementing K.S.A. 1992 Supp. 75-5210, 75-5251, 75-5252; effective May 1, 1980; amended May 1, 1984; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-312. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5252; effective May 1, 1980; amended May 1, 1984; revoked Feb. 15, 2002.)

44-14-313. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5252; effective May 1, 1984; revoked Feb. 15, 2002.)

44-14-314. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5210, 75-5251, and 75-5252; effective May 1, 1984; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-315. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5252; effective May 1, 1984; revoked Feb. 15, 2002.)

44-14-316. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5210, 75-5251, 75-5252; effective May 1, 1984; amended Dec. 6, 1993; revoked Feb. 15, 2002.)

44-14-317. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, 75-5251, 75-5252; effective May 1, 1987; revoked Feb. 15, 2002.)

44-14-318. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 1992 Supp. 75-5210, 75-5251, 75-5252; effective Dec. 6, 1993; revoked Feb. 15, 2002.)

Article 15.—GRIEVANCE PROCEDURE FOR INMATES

PROCEDURES GENERALLY

44-15-101. Inmate or parolee grievance procedure; informal resolution; formal levels. (a) Throughout this article comprising the grievance procedure, all references to inmates shall include parolees, offenders, or both, super-

vised on either conditional release or postrelease supervision unless the meaning is clearly to the contrary. References to parolees shall include offenders supervised on either conditional or post-release supervision. References to the warden shall include the parole director. The unit team equivalent shall be the parole officer.

(b) Before utilizing the grievance procedure, the inmate shall be responsible for attempting to reach an informal resolution of the matter with the personnel who work with the inmate on a direct or daily basis. An inmate in a facility or parole setting shall contact the unit team members for the attempt at informal resolution. That attempt shall be documented. The facility's inmate request forms may be used to document this process. If this informal resolution attempt fails, the grievance system may then be used. If an emergency exists and a resolution could not be obtained by going to the unit team, the inmate may go directly into the grievance process.

(c) At each stage, all grievances shall be answered in as short a time as possible to insure that delay will not impose additional hardship upon the inmate or unnecessarily prolong a misunderstanding. Grievances of inmates who have since been transferred, paroled, or discharged shall be answered to the extent possible.

(d) The grievance procedure shall incorporate several levels of problem solving to assure solution at the lowest administrative level possible.

(1) Level 1. The inmate shall first submit the grievance report form to an appropriate unit team member of the facility. The parolee shall first submit the form to the parole officer.

(2) Level 2. The inmate shall then submit the grievance report form to the warden of the facility. The parolee shall then submit the form to the regional parole director.

(3) Level 3. If not resolved, the grievance may be next submitted to the office of the secretary of corrections. Either a response to the grievance or referral of the matter to a deputy secretary of corrections for additional investigation, if necessary, shall be made by the warden. Grievances of inmates may be referred by the secretary to the deputy secretary of corrections for facility management. Grievances of parolees may be referred by the secretary to the deputy secretary of corrections for community and field services management.

(e) Inmate grievance report forms and appeal forms shall be made available to all inmates.

Grievance forms and appeal forms shall be provided in containers in each inmate living unit and on each segregation wing or tier. The unit team shall assist the inmate in obtaining copies of supporting material necessary to complete the grievance if the number of photocopies requested by the inmate is reasonable.

(f) No staff member shall refuse to sign, date, and return an inmate request form, an inmate grievance form, or a grievance receipt slip showing that the inmate came to that person for assistance.

(g) Each inmate shall be entitled to invoke the grievance procedure. The procedure shall be made accessible to mentally impaired and physically handicapped inmates by the warden. This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended May 1, 1984; amended May 1, 1987; amended April 20, 1992; amended Feb. 15, 2002.)

44-15-101a. Grievance procedure distribution; orientation; applicability; remedies; advisory committee; investigation. (a) Grievance procedure regulations shall be distributed or made readily available to all employees and inmates in each correctional facility.

(b) Each inmate and employee, upon admittance to or employment by the facility, shall receive an oral explanation of the grievance procedure, including an opportunity to have questions regarding the procedure answered orally. Explanatory materials and the oral presentation shall be available in any language spoken by a significant portion of the facility's population. To the extent feasible, inmates who do not understand English shall receive an explanation of the grievance procedure in a language in which the inmate is fluent. Mentally impaired and physically handicapped inmates shall receive explanations in a manner comprehensible to them. Parole officers shall provide each parolee with a brief grievance procedure orientation that explains the manner in which the system functions for parolees. Following the explanation, each inmate and each parolee shall sign a statement indicating that the required explanation has been given.

(c) All employees of the facility who are directly involved in the operation of the grievance procedure shall receive training in the skills necessary

to operate, or participate in, the grievance procedure.

(d) (1) The grievance procedure shall be applicable to a broad range of matters that directly affect the inmate, including the following:

(A) Complaints by inmates regarding policies and conditions within the jurisdiction of the facility or the department of corrections; and

(B) actions by employees and inmates, and incidents occurring within the facility.

(2) The grievance procedure shall not be used in any way as a substitute for, or as part of, the inmate disciplinary procedure, the classification decision-making process, the property loss or personal injury claims procedure, or the procedure for censorship of publications specified in the secretary's internal management policy and procedure.

(e) The remedies available to the inmate may include action by the warden of the facility to correct the problem or action by the secretary of corrections to cause the problem to be corrected. Relief may include an agreement by facility officials to remedy an objectionable condition within a reasonable, specified time, or to change a facility policy or practice.

(f) A procedure shall be established by the warden for investigating the allegations and establishing the facts of each grievance. An inmate or employee who appears to be involved in the matter shall not participate in any capacity in the resolution of the grievance.

(g) A copy of the grievance response at each level shall be delivered to the unit team, to the inmate, and to the warden last responding. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1984; amended May 1, 1985; amended Feb. 15, 2002; amended June 1, 2007.)

44-15-101b. Time limit for filing grievance. Grievances shall be filed within 15 days from the date of the discovery of the event giving rise to the grievance, excluding Saturdays, Sundays and holidays. No grievance, regardless of time of discovery, shall be filed later than one year after the event. Any grievance filed later than these deadlines may be returned to the inmate without investigation. The name of the individual returning the grievance, the date of the return, and the reasons for the return shall be noted on the grievance. An inmate may move to the next stage of the grievance procedure if a timely re-

sponse is not received at any step in the grievance process, unless an extension of time for the response is agreed to in writing by the inmate and staff person answering the grievance. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1984; amended May 1, 1988.)

44-15-102. Procedure. (a) Grievance step one: preliminary requirement; informal resolution and problem solving at unit team level.

(1) Each inmate shall first seek information, advice, or help on any matter from the inmate's unit team, or from a member of the team. If unable to solve the problem, the unit team shall refer the inmate to the proper office or department. The unit team shall assist those inmates who are unable to complete the form themselves.

(2) If an inmate does not receive a response from the unit team within 10 calendar days, a grievance report may be sent to the warden without the unit team signature or signatures. Each grievance report form shall include an explanation of the absence of the signature or signatures.

(b) Grievance step two: complaint to the warden. If any inmate receives a response but does not obtain a satisfactory solution to the problem through the informal resolution process within 10 calendar days, the inmate may fill out an inmate grievance report form and submit it, within three calendar days after the deadline for informal resolution, to a staff member for transmittal to the warden.

(1) The inmate shall attach a copy of each inmate request form used to attempt to solve the problem and shall indicate on the inmate grievance report the following information:

(A) A specific complaint that states what or who is the subject of the complaint, related dates and places, and what effect the situation, problem, or person is having on the inmate that makes the complaint necessary;

(B) the title and number, if possible, of any order or regulation that could be the subject of the complaint;

(C) the action that the inmate wants the warden to take to solve the problem;

(D) the name and signature of the responsible institution employee or employees or of the parole officer from whom the inmate sought assistance. This signature shall be on either an inmate request form or the grievance report form. The date on which the help was sought shall be entered by the employee on the form; and

(E) the date on which the completed grievance report was delivered to the staff member for transmittal to the office of the warden.

(2) The staff member shall forward the report to the warden before the end of the next working day and shall give a receipt to the inmate.

(3) Warden's response.

(A) (i) Upon receipt of each grievance report form, a serial number shall be assigned by the warden or designee, and the date of receipt shall be indicated on the form by the warden or designee. The nature of the grievance shall be ascertained by the warden or designee.

(ii) Each inmate grievance shall be returned to the inmate, with an answer, within 10 working days from the date of receipt.

(B) Each answer shall contain findings of fact, conclusions drawn, the reasons for those conclusions, and the action taken by the warden. Each answer shall inform the inmate that the inmate may appeal by submitting the appropriate form to the secretary of corrections.

(C) In all cases, the original and one copy of the grievance report shall be returned by the warden to the inmate. The copy shall be retained by the inmate for the inmate's files. The original may be used for appeal to the secretary if the inmate desires. The necessary copies shall be provided by the warden.

(D) A second copy shall be retained by the warden.

(E) Each facility shall maintain a file on grievance reports indexed by inmate name and subject matter. Grievance report forms shall not be placed in the inmate's institution file.

(F) Any grievance report form may be rejected by the warden if the form does not document any unit team action as required for the preliminary informal resolution process. The grievance report form shall then be sent back to the unit team for an immediate answer to the inmate.

(G) If no response is received from the warden in the time allowed, any grievance may be sent by an inmate to the secretary of corrections with an explanation of the reason for the delay.

(c) Grievance step three: appeal to the secretary of corrections.

(1) If the warden's answer is not satisfactory, the inmate may appeal to the secretary's office by indicating on the grievance appeal form exactly what the inmate is displeased with and what action the inmate believes the secretary should take. The inmate's appeal shall be made within three cal-

endar days of receipt of the warden's decision, or within three calendar days of the deadline for that decision, whichever is earlier.

(2) The appeal shall then be sent directly and promptly by U.S. mail to the department of corrections central office in Topeka.

(3) When an appeal of the warden's decision is made to the secretary, the secretary shall then have 20 working days from receipt to return the grievance report form to the inmate with an answer. The answer shall include findings of fact, conclusions made, and actions taken.

(4) If a grievance report form is submitted to the secretary without prior action by the warden, the form may be returned to the warden. If the warden did not respond in a timely manner, the form shall be accepted by the secretary.

(5) An appropriate official may be designated by the secretary to prepare the answer.

(d) General provisions: page limits; partial responses; repetitive filings.

(1) At each step of the grievance procedure, the total number of pages of inmate grievance text shall not exceed 10 pages. Text appearing on the front and back of a page shall count as two pages. Any page of text beyond 10 pages shall not be considered when determining the merits of the grievance.

(2) Responding to parts of grievances that are procedurally or substantively appropriate shall not constitute a waiver of defects with the remaining parts of the grievance that are not procedurally or substantively appropriate.

(3) No offender shall abuse the grievance system by repeatedly filing the same complaint.

(A) Each offender who has been identified as being abusive of the grievance system by filing the same complaint on more than one occasion shall be notified in writing of this finding by the warden or secretary's designee responsible for responding to inmate grievance appeals who receives the repeated filing.

(i) The notification shall be given at the time of the repeated filing.

(ii) The repeated filing shall be returned to the offender with the notification but without further substantive response.

(iii) The notification shall contain reference to the matter of which the grievance is repetitive.

(B) If, following this notification, an offender continues to file the same complaint, the warden or secretary's designee may make application to

the secretary to impose sanctions to remedy the abuse.

(C) Upon the finding by the secretary of an abusive filing, a fee of not more than five dollars may be imposed on the offender.

(D) Any application for sanctions submitted to the secretary by a warden or secretary's designee for consideration may be referred by the secretary to a designee other than a person responsible for responding to grievance or grievance appeals. (Authorized by and implementing K.S.A. 75-5210, K.S.A. 75-5251; effective May 1, 1980; amended May 1, 1984; amended May 1, 1985; amended May 1, 1988; amended April 20, 1992; amended Feb. 15, 2002; amended June 1, 2007.)

44-15-103. Reserved.

44-15-104. Reprisals prohibited. (a) Inmates. No adverse action shall be taken against any inmate for use of the grievance procedure unless the inmate uses the grievance procedure for any of the following purposes:

(1) To communicate a threat to another person or to the security of the facility;

(2) to make a complaint knowing that it is false, malicious, or made in bad faith; or

(3) to commit any unlawful act.

(b) Employees. No adverse action shall be taken against any employee for good faith participation in the grievance procedure. Employees shall be entitled to grieve reprisals for participation in inmate grievance systems by use of the department of corrections' employee grievance system. (Authorized by and implementing K.S.A. 2005 Supp. 75-5210, K.S.A. 75-5251; effective May 1, 1984; amended June 1, 2007.)

44-15-105. Records. (a) Nature. Records regarding the filing and disposition of grievances shall be collected and maintained systematically by the correctional facility. These records shall be preserved for at least three years following final disposition of the grievance. These records shall include aggregate information regarding the numbers, types and dispositions of grievances, as well as individual records of the date of and the reasons for each disposition at each stage of the procedure. The logs and records shall be in a form and manner prescribed by secretary of corrections policy and procedure.

(b) Confidentiality. Records regarding the participation of an individual in grievance proceedings shall be considered confidential and shall be

handled under the same procedures used to protect other confidential case records. Consistent with ensuring confidentiality, members of the staff who are participating in the disposition of a grievance shall have access to records essential to the resolution of the grievance. This, however, shall not permit review of inmate files by other inmates. Grievance report forms shall not be placed in the inmate's departmental file. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5210(f); effective May 1, 1984.)

44-15-105a. Annual review. The records regarding the filing and disposition of grievances shall be reviewed annually by the secretary of corrections to determine the effectiveness and credibility of the grievance process. The review shall include an analysis of the types of grievances received, the types and levels of disposition, and any complaints that have been received about the grievance procedure itself. The review shall also include solicitation and consideration of employee and inmate comments on the effectiveness and credibility of the grievance procedure. The secretary of corrections may designate an appropriate deputy secretary of corrections to conduct the review. (Authorized by and implementing K.S.A. 1991 Supp. 75-5210, 75-5251; effective April 20, 1992.)

44-15-106. Emergency procedure. "Emergency grievances" shall mean those grievances for which disposition according to the regular time limits would subject the inmate to a substantial risk of personal injury, or cause other serious and irreparable harm to the inmate. In emergency situations the inmate may bypass the prerequisite of informal resolution if going to the unit team would not obtain a solution to the problem. The inmate shall indicate on the face of the grievance form the nature of the emergency and shall write the word "emergency" at the top of the grievance report form. Emergency grievances shall be forwarded immediately, without substantive review, to the level at which corrective action can be taken. Emergency grievances shall be expedited at every level. The same external review provisions that apply to regular grievances shall apply to emergency grievances.

If the person at the corrective action level determines that the grievance is not an emergency, that fact shall be included on the grievance form and the form shall be signed by the person who made that determination. The grievance may then be processed from that point on as a regular grievance.

ance. If necessary for a proper response the grievance may be sent for processing at a lower level. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 1983 Supp. 75-5210, 75-5210(f); effective May 1, 1984.)

44-15-107 to 44-15-200. Reserved.

SPECIAL PROCEDURES

44-15-201. Special kinds of problems.

(a) If an inmate wants to bring a problem to the attention of a higher authority without going through the grievance procedure, the inmate may address as official mail a sealed letter or grievance report form to the warden of the facility, the secretary of corrections, or the state pardon attorney. However, these letters or grievance report forms should be reserved for the most difficult and complex problems. Generally, any matter that can be internally handled under the inmate grievance procedure shall not be considered as appropriate for the use of the official mail correspondence privilege.

(b) Any department of corrections or facility official who receives a complaint letter may return it to the inmate with instructions to the inmate to make use of and follow the proper grievance procedure if, in the opinion of the official, the matter is appropriate for handling through the grievance procedure.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5251, K.S.A. 75-5210; effective May 1, 1980; amended Feb. 15, 2002.)

44-15-202. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5210, 75-5210(f); effective May 1, 1980; revoked May 1, 1984.)

44-15-203. Ombudsman. The department of corrections grievance procedure is provided for its inmates and parolees, and shall not in any way replace any other complaint system provided by the state ombudsman for corrections. The functions of the ombudsman for corrections are described in writing and made available to inmates. (Authorized by and implementing K.S.A. 75-5210, 75-5251; effective May 1, 1980; amended May 1, 1987.)

**Article 16.—REPORTING AND CLAIMS
PROCEDURE FOR LOST OR
DAMAGED PROPERTY OR FOR
PERSONAL INJURY**

44-16-101. Reserved.

44-16-102. Reporting loss or damage to property. (a) Each inmate shall report every loss of or damage to the inmate's own property immediately. In reporting property damage or loss, inmates shall use applicable avenues of redress as established by internal management policies and procedures. These procedures shall be strictly followed.

(b) The facility warden shall not be required to accept any property loss or damage claim unless it is made within 15 working days of the discovery of the loss. The warden shall not be required to accept any claim at all if both of the following conditions are met:

(1) The claim is submitted later than one year and one day after the date of the loss, regardless of when the loss was discovered.

(2) The inmate could have discovered the loss by exercising reasonable effort to know the status of the inmate's property and money.

This amendment shall be effective on and after February 15, 2002. (Authorized by K.S.A. 75-5251; implementing K.S.A. 46-920, 75-5254, 75-5255, 75-5257, 75-5210; effective May 1, 1980; amended May 1, 1984; amended Feb. 15, 2002.)

44-16-103. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 46-920, as amended by L. 1988, Ch. 183, Sec. 1, K.S.A. 75-5210, 75-5251, 75-5254, 75-5257; effective May 1, 1980; amended May 1, 1984; amended Jan. 2, 1989; revoked Feb. 15, 2002.)

44-16-104. This revocation shall be effective on and after February 15, 2002. (Authorized by K.S.A. 1990 Supp. 75-5210, K.S.A. 75-5251; implementing K.S.A. 1990 Supp. 46-920, 75-5254, 75-5257; effective May 1, 1980; amended May 1, 1984; amended Jan. 2, 1989; amended April 20, 1992; revoked Feb. 15, 2002.)

44-16-104a. Inmate claims for personal injury. (a) Each inmate claim for personal injury shall be submitted to the facility and secretary of corrections within 10 calendar days of the claimed personal injury.

(b) Each claim described in subsection (a) shall be submitted and processed in accord with the department of corrections' internal management policies and procedures.

(c) The requirement that the inmate submit the claim as described in subsection (a) shall apply whether or not the inmate pursues a grievance

pursuant to article 15 and whether or not the inmate files a claim with the legislative joint committee on special claims against the state. (Authorized by K.S.A. 75-5251; implementing K.S.A. 75-52,138; effective June 1, 2007.)

44-16-105. Property at own risk. An inmate shall be deemed to own personal property at the inmate's own risk. Loss or damage of personal property shall not provide a basis for recovery on a claim unless the loss or damage directly resulted from the intentional or negligent act or omission of a correctional employee and was reported according to applicable internal management policies and procedures.

This amendment shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 75-5210; effective May 1, 1980; amended May 1, 1984; amended Feb. 15, 2002.)

44-16-106. This revocation shall be effective on and after February 15, 2002. (Authorized by K.S.A. 75-5251, K.S.A. 1979 Supp. 75-5252; effective May 1, 1980; revoked Feb. 15, 2002.)

44-16-107. This revocation shall be effective on and after February 15, 2002. (Authorized by K.S.A. 1983 Supp. 75-5210, K.S.A. 75-5251; implementing K.S.A. 1983 Supp. 75-5210, K.S.A. 46-920, 75-5251, 75-5254, 75-5257; effective May 1, 1984; revoked Feb. 15, 2002.)

44-16-108. This revocation shall be effective on and after February 15, 2002. (Authorized by and implementing K.S.A. 46-920, as amended by L. 1988, Ch. 183, Sec. 1, K.S.A. 75-5210, 75-5251, 75-5254, 75-5257; effective May 1, 1980; amended May 1, 1984; amended Jan. 2, 1989; revoked Feb. 15, 2002.)